



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Tenth day of August Two Thousand Sixteen

PRESENT

The Hon`ble Dr.Justice P.DEVADASS

CRL OP(MD) No.10270 of 2016 IN
CRL.A(MD)NO.SR8883 of 2016

R.UMA

...APPELLANT/RESPONDENT/COMPLAINANT

Vs

A.HENRY

... RESPONDENT/APPELLANT/ACCUSED

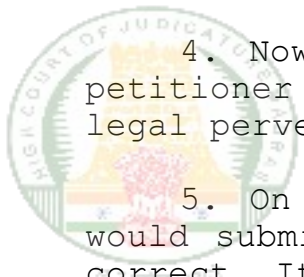
Criminal Miscellaneous Petition filed under Section 378(4) of Cr.P.C. praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to to grant special leave to file on appeal agaist the order of acquittal of the respondent/appellant/accused herein in Crl.A. No.15 of 2012 on the file of the learned III-Additional District cum Sessions court, Thanjavur dated 10.12.2014.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.M.JEGADEESH PANDIAN, Advocate for the Petitioner the Court made the following order:-

The complainant having aggrieved by the acquittal of the accused in a cheque bouncing case in C.A.No.15 of 2012 by the III Additional District Judge, Thanjavur, reversing the conviction recorded by the learned Judicial Magistrate, Pattukottai in C.C.No.83 of 2010, seeks special leave under Section 378(4) Cr.P.C., to appeal as against the order of acquittal.

2. It is a cheque bouncing case. The cheque is for Rs.1 lakh. The complainant succeeded in the trial Court. By the reversal judgment of the appellate Court, the accused succeeded. He was acquitted.

3. In a special leave petition under Section 378(4) Cr.P.C., the Court has to see whether the impugned judgment suffers from legal perversity. The word 'legal perversity' has not been defined in the Code of Criminal Procedure. It's English dictionary meaning is different. In judicial parlance, it has different meaning. But it has been judicially explained. The Court ought to have taken into account the evidence, which has not been taken into account. In other words, legal evidence has been overlooked. Evidence which is relevant and material for consideration has been omitted to be considered. There are instances of legal perversity.



4. Now, it has been contended by the learned counsel for the petitioner that the judgment of the appellate Court suffers from legal perversity.

5. On the other hand, the learned counsel for the respondent would submit that the judgment of the appellate Court is perfectly correct. It is a well considered judgment. The learned counsel also drawn the attention of this Court to the view taken by the appellate Court that it is quite as against commonsense that nobody will believe Rs.1 lakh has been given to a total stranger. In such circumstances, rightly, the appellate Court has taken the view rightly.

6. I have anxiously considered the rival submissions, perused the impugned judgment and also the materials on record.

7. Placing belief, reliance, trust in giving loans differs from person to person and it is also based on facts and circumstances of each case. One important aspect is that the accused has accepted his signature in the cheque. He has accepted his issuance of cheque. But, he pleaded that the complainant itself is a stranger to him. He says that there is no privity contract between both. This aspects seems to have been weighed much in the mind of the appellate Court. In the facts and circumstances, I find some eminently arguable points are also involved in this criminal appeal. In such circumstances, he can be given leave to appeal.

8. Thus, this petition is allowed. Special leave is granted to the petitioner:

The Registry is directed to number the criminal appeal if it is otherwise in order.

sd/-

10/08/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1.THE IIIIRD ADDITIONAL DISTRICT CUM SESSIONS JUDGE, THANJAVUR

2.DO THROUGH THE PRINCIPAL SESSIONS JUDGE

THANJAVUR DISTRICT AT KUMBAKONAM

3.THE JUDICIAL MAGISTRATE, PATTUKOTTAI, THANJAVUR DISTRICT

4.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,

THANJAVUR DISTRICT AT KUMBAKONAM

RL/5C/2P/KP/SARI/22/8/2016

ORDER

IN

CRL OP(MD) No.10270 of 2016

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Date :10/08/2016