

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL APPEAL No.483 OF 2006

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JUDGMENT:

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This Criminal Appeal is preferred by the complainant challenging the judgment of XV Metropolitan Magistrate, Hyderabad dated 27.4.2005 in C.C.No.842 of 2003, whereby the learned Magistrate dismissed the C.C. acquitting the accused-respondent herein for the offence under Section 138 of Negotiable Instruments Act.

The facts of the case are that the complainant lodged a complaint under Section 200 Cr.P.C. against the sole accused-respondent herein alleging that for the loan availed, the accused issued two cheques dated 8.9.2002 for Rs.1,00,000/- each to discharge the debt, but they were dishonoured for want of sufficient funds when presented with the bank. Despite the legal notice dated 28.3.2003 as the accused failed to pay the amount covered by the said cheques, the complainant initiated the proceedings under Section 138 of Negotiable Instruments Act.

The learned Magistrate after conclusion of trial acquitted the accused by the impugned judgment on the ground that the complainant-appellant herein has failed to establish that the amount covered by the cheques is legally enforceable debt.

Heard and perused the material available on record.

Though the matter pertains to 2006, the appellant could not serve the notice on the accused-first respondent. Even after the paper publication, the accused did not choose to appear before this Court. This Court perused the judgment of the trial Court. When two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other

to his innocence, the view which is favourable to the accused should be adopted. In the present case also, basing on the said principle, the trial Court has rightly acquitted the accused-first respondent herein. While exercising the powers in appeal against the order of acquittal the court of appeal would not ordinarily interfere with the order of acquittal unless the approach of the lower court is vitiated by some manifest illegality. Since no manifest illegality is pointed out in the impugned judgment, this Court is not inclined to interfere with the order of acquittal.

In the result, the Criminal Appeal fails and the same is accordingly dismissed.

Miscellaneous petitions, if any, filed in this appeal shall stand closed.

JUSTICE RAJA ELANGO

19.07.2016

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