

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.798 of 2007

JUDGMENT:

This Criminal Appeal is preferred by the complainant challenging the Judgment dated 06.02.2007 passed in S.T.C.No.1 of 2005 by the Court of the Judicial First Class Magistrate, Guntakal, whereby the learned Judge dismissed the complaint and acquitted the accused for the offence under Section 138 of the Negotiable Instruments Act.

The case of the complainant in brief is as follows.

That the accused along with his wife jointly borrowed an amount of Rs.70,000/- (Rupees seventy thousand only) from the complainant and that they have jointly executed the promissory note. After repeated demands by the complainant, the accused issued a cheque towards principal amount of the debt and when the same was presented by the complainant, the same is dishonoured for the reason that 'Funds Insufficient'. Hence, the complaint.

To prove the guilt of the accused, P.W.1 was examined and Exs.P.1 to P.9 were marked. No oral or documentary was adduced on behalf of defence.

On appreciation of oral and documentary evidence, the trial Court found the accused not guilty for the offence under Section 138 of the Negotiable Instruments Act and accordingly acquitted the accused. While acquitting the accused, the Court below observed that in Ex.P.6, office copy of the legal notice, it is not mentioned as to when exactly the alleged cheque, Ex.P.3, was issued by the accused and also admittedly, in Ex.P.8, office copy of rejoinder, it is not stated as to the reasons for non-mentioning of the particulars of the cheque and also no notice is issued to the wife of the accused. Further, the accused denied his signature on Ex.P.3, cheque, and the complainant did not chose to establish either the

execution of Ex.P.1 or Ex.P.3 by adducing any evidence to establish his version.

This Court is of the view that the Court below has appreciated the evidence in proper perspective and the reasoning given while acquitting the accused is in accordance with law. The Judgment of the Court below does not suffer from any perverse findings and the acquittal recorded by the Court below needs no interference by this Court. Hence, the Criminal Appeal is liable to be dismissed.

The Criminal Appeal is accordingly dismissed. Miscellaneous applications, if any pending in this appeal, shall stand dismissed.

29.08.2016
pln



JUSTICE RAJA ELANGO