

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Criminal Appeal No.977 & 978 of 2005

B.Shanmugasundaram

..

Appellant in both
Crl.As.

Vs

1.Palaniammal
2.Mahadevan
3.Gandhimathi
4.Kolandaivel
5.Poongodi
6.Thanikachalam

..

Respondents in
both Crl.As.

PRAYER IN BOTH APPEALS:-

This Criminal Appeal is filed under Section 378 of Cr.P.C., to set aside the judgment made in C.C.No.902 & 404 of 2003, dated 22.09.2005 on the file of Judicial Magistrate No.I, Salem with respect to respondents 3 to 8 therein and convict the respondents 3 to 8 therein by allowing this appeal.

For Appellant
in both Crl.As

: Mr.S.Sivakumar

For Respondents
in both Crl.As

: No Appearance

COMMON JUDGEMENT

Both these appeals have been filed against the order of acquittal, the appellant/complainant has filed two private complaints against accused. According to the complainant the first accused was a chit fund company, the second accused is the Managing Director of the first accused company and 3 to 8 accused are the directors of the company. They were all actively participated in the day to day affairs and the management of the first accused company. The complainant was a subscriber in the chit fund. In the two chit groups, A31 and A33, even though price money was awarded to him, was not paid to him. In order to discharge the liability, Second Accused issued four cheques to the complainant when the cheques were presented for collection and the same was returned on the ground exceeds arrangement. Thereafter, the appellant has filed the two complaints and the Court below also taken cognizance offence and issued summons.

2. In order to prove its case, the complainant has examined himself as a P.W.1 and marked 5 documents.

3. When the incriminating materials put the accused they denied the same. The accused not examined any witnesses but marked 2 documents.

4. Considering all those materials, the trial Court convicted A1 and A2 and other accused namely A3 to A8 were acquitted. Now challenging the order of acquittal these appeals have been filed by the appellant.

5. I have heard, Mr.S.Sivakumar, learned counsel appearing for the appellant.

6. Even though the notice was sent to the respondent, the notice was not served on them.

7. The trial Court acquitted the accused/respondent A3 to A8 on the ground that they are only directors of the company, who are the family members of A2 and there is no materials to show that they are in charge of day to day affairs of the company. Even though, in the complaint it is averred that, they in charge of the first Accused company in his evidence, he has stated that he is not aware whether they are actively participating in day to day affairs of the company.

V.BHARATHIDASAN,J.

dh/ mrp

7. Considering all these materials, the trial Court convicted A1 and A2 and acquitted A3 to A8. I have carefully gone through the materials and I find no infirmity or illegality in the order passed by the learned Judicial Magistrate and there is no merits in these appeals. Hence, this appeal is liable to be dismissed.

17.11.2017

dh/mrp

Index:Yes/No

Internet:Yes/No

Speaking order/Non speaking order

To

The Judicial Magistrate No.I,
Salem.

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