

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2017

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Crl.A.No.308 of 2009

J.Hariharasudhan .. Appellant

Vs.

P.Jayakumar .. Respondent

PRAYER: Criminal Appeal filed under Section 378 Cr.P.C Praying to set aside the order dated 08.04.2009 made in C.C.No.169 of 2006 on the file of the District Munsif-Cum-Judicial Magistrate, Perudurai.

For Appellant : Mr.N.Manokaran

For Respondent : M/s. I.C.Vasudeven and R.Nirmala

सत्यमेव जयते
JUDGMENT

The appellant-complainant has filed the present appeal under Section 378 of Cr.P.C against the order of acquittal passed by the learned District Munsif -Cum-Judicial Magistrate, Perundurai on 08.04.2009.

2. The brief facts of the case of the complainant are as follows:

The accused is doing Textile business and he used to buy goods from the complainant on credit basis. During the course of the said business transaction, the accused issued a cheque in favour of the complainant/appellant for a sum of Rs.6,76,686/- dated 16.02.2006 drawn on HSBC Bank, Coimbatore Branch. When the complainant presented the above said cheque through his banker namely Indus Ind Bank Ltd., Erode on 17.02.2006, the same was returned on 20.02.2006 for the reasons, i) Account Closed and ii) No such Account. Thereafter, the complainant issued a legal notice dated 06.03.2006 calling upon the accused to pay the amount within a period of 15 days from the date of receipt of the said notice. The accused received the said notice and sent a reply notice which contained false allegations. The complainant therefore filed the private complaint under Section 200 Cr.P.C before the District Munsif Cum Judicial Magistrate, Perundurai against the accused for an offence punishable under Section 138 of Negotiable Instruments Act.

3. The learned District Munsif-Cum-Judicial Magistrate, Perundurai had issued summons to the accused. The complainant also examined himself as P.W.1, subsequently, he did not attend the Court, though, eight adjournments were granted to him and finally the case was posted on 08.04.2009 on which date the complaint was dismissed under Section 256 Cr.P.C for non-prosecution and the accused was acquitted under Section 255 (1) Cr.P.C. Aggrieved against the said Judgment the appellant has filed the present appeal.

4. At the outset, it may be observed that the learned District Munsif -Cum-Judicial Magistrate, Perundurai has dismissed the complaint for non prosecution and not on merits. The learned counsel for the respondent also fairly conceded that since the case was disposed of not on merits, the matter can be remitted back to the Munsif -Cum-Judicial Magistrate, Perundurai for fresh disposal. In the case on hand, the amount involved is Rs.6,76,686/- and I feel that an opportunity should be given to the complainant to put forth his case. However, since the case is of the year 2006 both the complainant and accused are directed to appear before the District Munsif Cum Judicial Magistrate Court,

R.HEMALATHA.J,

VV

Perundurai on 30.01.2018 and the learned District Munsif Cum Judicial Magistrate, Perundurai is directed to dispose of the case within a period of three months from the date of receipt of this order. The Registry is also directed to send the records to the concerned Court without any delay.

5. With the above observation, the appeal is allowed.

15.12.2017

Internet : Yes/ No
Speaking/Non Speaking Order

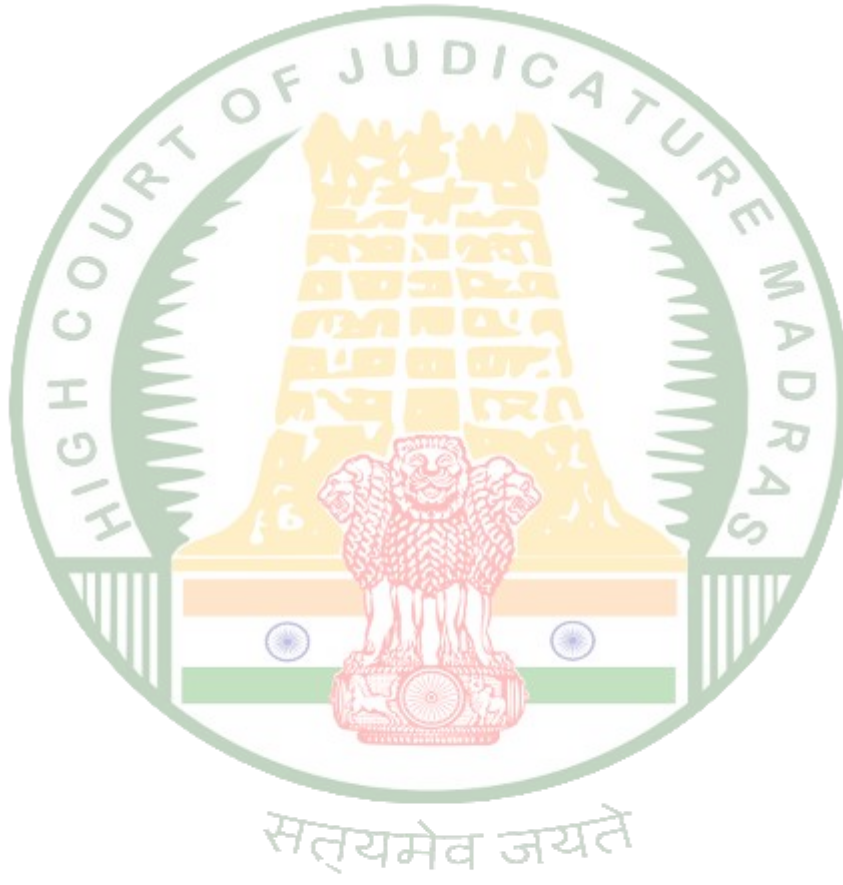
VV

To

1. The District Munsif-Cum-Judicial Magistrate,
Perundurai.
2. The Public Prosecutor,
High Court, Madras.

Crl.A.No.308 of 2009

15.12.2017



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