

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.11.2018
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI
Crl.A.No.283 of 2007

M/s.Sheela Enterprises,
Proprietor - Mrs.Sheela Bajaj
Rep. by her Power of Attorney Holder
Mr.Anil Kumar

... Appellant

Vs.

M/s.Manoj and Co.,
Rep. by its Proprietor
Mr.Manoj Prakasan

... Respondent

Prayer:

Appeal filed under Section 378 of Cr.P.C., seeking to set aside the acquittal order and judgment in favor of the respondent/ accused on 25.10.06 in C.C.No.4684 of 2003 on the file of Learned XIII Metropolitan Magistrate Court, Egmore, Chennai and convict him.

For Appellant : Mr.Abdul Saleem

For Respondent : No Appearance

J U D G M E N T

The appellant has filed this appeal seeking to set aside the judgment dated 25.10.2006 made in C.C.No.4684 of 2003 by the learned XIII Metropolitan Magistrate, Egmore, Chennai.

2.The case of the appellant is that the respondent borrowed a hand loan of Rs.2,00,000/-. Inorder to repay the same, the respondent issued cheques dated 03.10.2001 drawn on Mylapore Branch Corporation Bank for a sum of Rs.1,00,000/- and for a sum of Rs.25,000/-. When the said cheques were presented for collection, the same were returned as 'funds insufficient' on 05.10.2001. Thereafter, the appellant issued legal notice to the respondent and the same was received by the respondent on 12.10.2001. Since the respondent did not repay the loan amount, the appellant filed complaint before the learned XIII Metropolitan Magistrate, Egmore, Chennai and the same was assigned C.C.No.4684 of 2003.

3.On the side of the appellant/ complainant, three witnesses were examined and 13 documents were marked as exhibits. On the

side of the respondent/ accused three witnesses were examined and one document was marked as exhibit.

4.After trial, the lower Court acquitted the accused on the ground that the complaint was filed by the complainant without signature; the complainant did not take any steps to rectify the defects

and on the ground that the person in whose favour the cheque was issued was not even examined as witness. Aggrieved by the said acquittal of the accused, the appellant/ complainant has filed this appeal.

5.The learned counsel appearing for the appellant fairly concede that the complaint was filed by the complainant without the signature of the complainant or either the Managing Director of the appellant company or any authorized person. The learned counsel also fairly concede that the appellant has not taken any steps to rectify the defects even at the time of trial and would also fairly concede that the power of attorney in favour of the complainant company was given on 20.03.2003 much after the date of the complaint.

6.The learned counsel appearing for the appellant also have no proper explanation as to why the appellant has not put the signature in the complaint or as to why no steps were taken during the time of trial to rectify the defects.

7.In view of all the above, I do not find anything that warrants interference in the order of the Court below.

8.The criminal appeal is accordingly dismissed. The judgment dated 25.10.2006 made in C.C.No.4684 of 2003 by the learned XIII Metropolitan Magistrate, Egmore, Chennai, is hereby confirmed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The XIII Metropolitan Magistrate Court,
Egmore, Chennai

2. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1cc to M/s.Anand, Abdul & Vinodh Associates, S.R.No. 77659

Cr1.A.No.283 of 2007

VSNI1(CO)

rrs 10/12/2018