

IN THE HIGH COURT OF JUDICATURE AT MADRAS

[Reserved on :07.08.2018]

[Pronounced on : 26.11.2018]

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Cr1.A.No.778 of 2007

N.Jayaraman Appellant/Complainant/PWI

...Versus...

G.Shankar Respondent/Accused

PRAYER: Criminal Appeal filed under Section 374 (2) of Cr.P.C., to set aside the order passed in C.C.No.1783 of 2006, dated 16.07.2007 on the file of Judicial Magistrate Court No.III, Salem.

For Appellants : Mr.R.Nalliyappan

For Respondent : No appearance

JUDGMENT

This Criminal Appeal is filed by the private complainant in S.T.C.No.1783 of 2006, dated 16.07.2007 on the file of learned Judicial Magistrate Court No.III, Salem, which was dismissed, against which, this appeal has been preferred by the complainant/P.W.1.

2. The appellant/petitioner has preferred the private complaint alleging that to meet the business transactions in the month of August 2005, the respondent/accused has borrowed Rs.20,000/-, out of which, he has given Rs.1000/- towards the principal and Rs.2,000/- towards interest and for the balance of Rs.19,000/-, he has issued the cheque. On presentation, the same was bounced and hence, the complaint.

3. The respondent resisted the complaint inter-alia contending that it is barred by limitation. Accepting the said contention, the learned Judicial Magistrate dismissed the complaint and hence, the appeal.

4. To prove the charges, prosecution examined P.W.1 and Exhibits P1 to P7 were marked and on the side of the defence, no one has been examined and no documents were marked.

5. Exhibit P1 and P2 are the cheques dated 10.05.2006 and 10.06.2006. Exhibit P3 and Exhibit P4 are the return of memos, dated 21.06.2006. P.W.5 is the legal notice, dated 05.07.2006. P.W.6 is the receipt of the legal notice, dated 05.07.2006. Exhibit P7 is the acknowledgment.

6. It is seen that the cheques dated 10.05.2006 and 10.06.2006 and a legal notice were issued and on 21.06.2006 and it returned from the Bank and legal notice was issued calling upon the respondent/accused on 05.07.2006 and it was also received. It appears that the complaint has been filed on 27.07.2006 and hence, the limitation starts from 22.07.2006 and the complaint has to be filed within 30 days, namely 21.08.2006. The complaint was filed only on 21.08.2006, as per the seal of the lower Court and thus, the reasoning given by the learned Magistrate that it is out of limitation period on factual grounds as per the endorsement as stated in the complaint, is beyond limitation period and there was also no cause of action. On factual position, this Court is of the considered view that the complaint has been preferred after the limitation period and the reasons assigned by the trial Court cannot be found fault with.

7. In the result, this Criminal Appeal is dismissed and confirming the acquittal ordered by the trial Court as against the respondent/accused.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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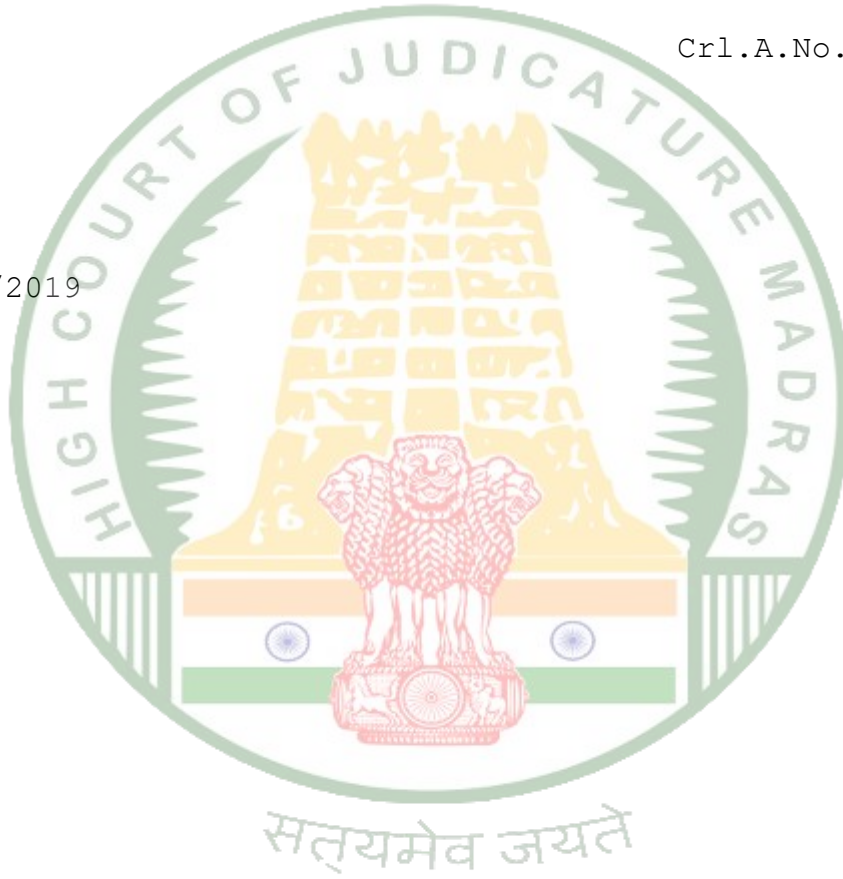
1.The Judicial Magistrate Court No.III,
Salem.

2.The Chief Judicial Magistrate,
Salem.

+1cc to Mr.R.Nalliyappan, Advocate Sr.80994

Cr1.A.No.778 of 2007

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srg 10/01/2019



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