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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Criminal Appeal No.108 of 2007

Jeganathan

... Appellant/Complainant

Vs.

Purusothaman

... Respondent/Accused

Prayer: Criminal Appeal is filed under Section 378 of the Criminal Procedure Code, praying against the judgment passed in C.C.No.1076 of 2003 by the Judicial Magistrate No.I, Tiruppur dated 02.06.2006.

For Appellant : No appearance

For Respondents : Mr.P.Kaviri Nadan
[Legal Aid Counsel]

JUDGEMENT

This appeal is directed against the judgment of acquittal made in C.C.No.1076 of 2003 on the file of Judicial Magistrate Court No.I, Tiruppur.

2. The counsel for the complainant is not present. It appears that on the earlier occasion a statement was made by him to the effect that the appellant is no more, but till date no further steps have been taken. This Court cannot wait indefinitely. This appeal is of the year 2007. The transactions date back to the year 2002. Therefore, this Court appointed Mr.P.Kaviri Nadan, as the Legal Aid Counsel to argue this appeal.

3. Heard the above said Legal Aid Counsel appearing for the accused.

4. It is seen that the case of the complainant Jeganathan is that the accused/respondent Purusothaman borrowed a sum of



Rs.3,50,000/- on 28.12.2002 and that to return the same complaint cheque dated 26.06.2003, was issued by the respondent. The complaint cheque was drawn on State Bank of Travancore in favour of the complainant. Since it was dishonoured on presentation, after following the usual formalities the complaint came to be filed.

5. The accused examined one Girivasu his erstwhile partner as D.W.1. Since he turned hostile, he was cross examined by the accused. It was convincingly elicited that the account on which the complaint cheque was drawn was closed in the year 1996 itself. The Court below came to the conclusion that it was improbable that for about 6 years such a cheque pertaining to a closed bank account would have been kept carefully and then to deceive the complainant handed over. The Court below also took note of the evidence given by D.W.1. A suggestion was specifically put by the said D.W.1 that since the complainant, the accused and D.W.1 are known each other, the cheque in question which was in the custody of D.W.1, when he was a partner with the accused had been handed over to the complaint and thus misused.

6. The complainant had marked as many as 9 exhibits. Ex.P.6 is the statutory demand notice issued by the complainant. The Court below had specifically given a finding that the said notice is defective and does not contain full and proper particulars. Ex.P.8 is said to be a letter of undertaking given by the accused and signed by the said Girivasu also, but then this document was filed belatedly in the Court. One Chockalingam is said to have drafted the said document but he was not examined. The Court below therefore has given a finding that the said document is not genuine and does not inspire its confidence. In these circumstances, no other evidence was adduced by the complainant to prove passing of the loan amount to the accused.

7. This is an appeal against the judgment of acquittal. Unless, the approach of the Court below is demonstrated to be perverse or improper, the appellate Court would be slow to interfere with the judgment of acquittal. Therefore, looked at from any angle, no case is made out for interference. There is no merit in the said appeal. It stands dismissed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

msvm



To:

1) The Judicial Magistrate No.I,
Tiruppur.

2) - do - through The Chief Judicial Magistrate,
Coimbatore.

copy to: The Section Officer,
Criminal Section, High Court, Madras.

Criminal Appeal No.108 of 2007

SV(CO)
SSM(12/09/2019) .