

IN THE HIGH COURT OF JUDICATURE AT MADRAS COURT

DATED : 21.08.2018

CORAM

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.A.No.771 of 2015

T.Manikanda Prabhu

... Appellant/Respondent/
Complainant

-Vs-

N.Ramachandran

... Respondent/Appellant/
Accused

Prayer: Criminal Appeal is filed under Section 378 of the Criminal Procedure Code, to call for the records in CA.No.21 of 2014 dated 29.04.2015 on the file of the I Additional District and Sessions Judge, Tiruppur reversing the order dated 10.04.2014 made in STC.No.335 of 2012 on the file of the Judicial Magistrate-cum-Fast Track Court, Tiruppur.

For Appellant : Mr.S.Saravanan
For Respondent : Mr.J.Franklin

J U D G M E N T

The complainant is the appellant in this criminal appeal. According to him the respondent borrowed a sum of Rs.4,50,000/- on 21.07.2010 and he paid interest on 21.08.2010 and subsequently issued three cheques in favour of the appellant dated 29.09.2010 for Rs.1,50,000/- each assuring that the cheques will be honoured on presentation.

2. The trial Court after issuing summons to the respondent and after hearing both sides convicted and sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.5,000/- in default to undergo one month simple imprisonment. Aggrieved against the order of conviction, the respondent preferred an appeal before the first appellate Court in CA.No.21 of 2014. The appellate Court after hearing both sides came to the conclusion that the respondent therein has not proved the case and allowed the appeal by setting aside the order passed by the trial Court. As against the said judgment of acquittal, the complainant has preferred the present appeal before this Court.

3. Heard the rival submissions made on both sides and perused the materials available on record.

4. On a careful perusal of the judgments passed by both the Courts below, the appellant admitted that there is no relationship between the appellant and the respondent. Even prior to borrowal of money the respondent was not known to the appellant. The appellate Court has recorded a finding that the appellant has lent out a sum of Rs.4,50,000/- to the unknown person. The appellant/PW1 in his cross examination admitted that a sum of Rs.2,00,000/- was paid from his savings and balance sum of Rs.2,50,000/- was arranged from other sources and lent out Rs.4,50,000/- to the respondent.

5. The appellate Court found that the appellant is an income tax assessee and in the income tax returns during the relevant period the amount lent to the respondent is not shown in the returns. Further, the appellant has not mentioned the names of the persons from whom he obtained the money and gave to the respondent and those persons were not examined. Furthermore, on the date of lending the money on 21.07.2010, the respondent received a sum of Rs.4,50,000/- and not executed any document, the appellant also not insisted for any document. On 21.08.2010, the respondent paid the monthly interest and on 21.09.2010 issued three cheques, the respondent challenged the means of the appellant, the appellant does not have any source of means to lent a sum of Rs.4,50,000/- to the respondent. The appellate Court extended the benefit of doubt in favour of the respondent and set aside the order of the trial Court and allowed the appeal. The appellate Court being a fact finding Court reappreciated the entire evidences independently and arrived at a conclusion that the appellant has not proved the case beyond the reasonable doubt. On a perusal of entire records and the judgments of the Courts below, this Court finds there is no merit in this appeal and finds no perversity in the judgment passed by the appellate Court.

6. In the result, the criminal appeal stands dismissed by confirming the judgment of the appellate Court made in CA.No.21 of 2014 dated 29.04.2015 on the file of the I Additional District and Sessions Judge, Tiruppur.

Sd/-
Assistant Registrar (V)

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Sub Assistant Registrar

To

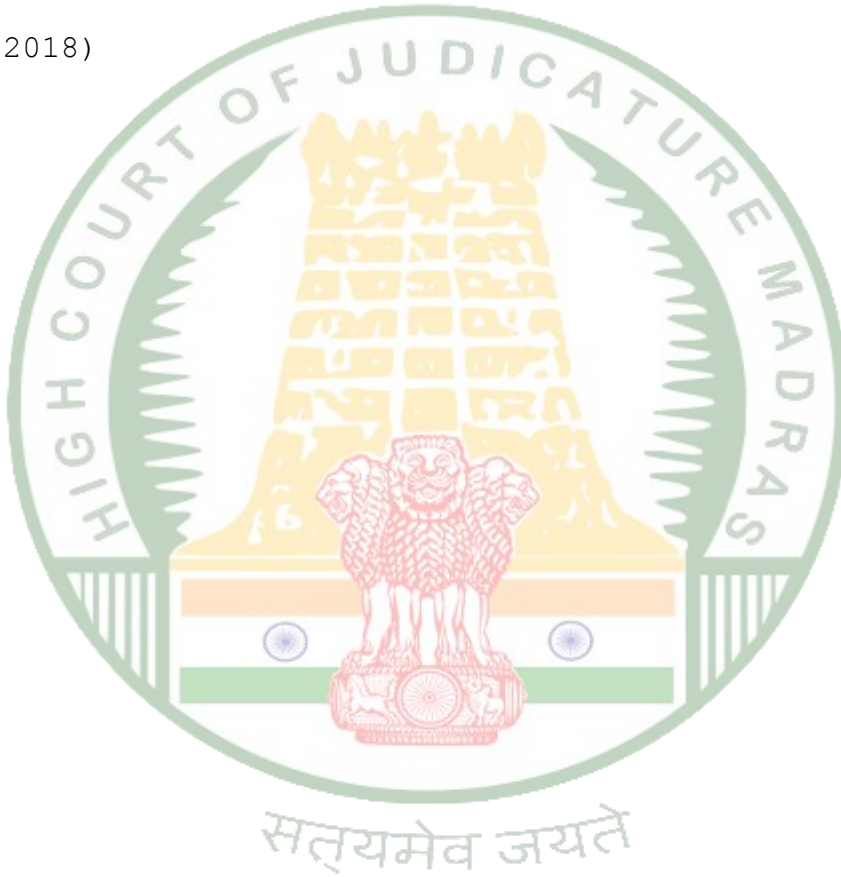
1. The I Additional District and Sessions Judge, Tiruppur.

2. The Judicial Magistrate-cum-Fast Track Court, Tiruppur.

+lcc to Mr.S.Saravanan, Advocate SR.No.57588

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RR(CO)
RMP(19/09/2018)



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