

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.04.2018
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
Crl.A.No.181 of 2002

Thiagarajan

..Appellant/Respondent/Complainant

vs.

M/s.Ayisha Tanning Company
by its Partner
V S A Khader
14 Swamy Street,
Periamet, Chennai-600 003.

..Respondent/Appellant/Accused No.2

Prayer:- Criminal Appeal is filed under Section 378(4) of the Cr.P.C. against the judgment dated 24.10.2001 of the Additional Sessions Judge, Vellore, in C.A.No.29 of 1999, setting aside the conviction imposed upon the respondent by the Judicial Magistrate, Guindyattam, in C.C.351 of 1995, wherein the accused was convicted for an offence under Sec.138 of the Negotiable Instruments Act and sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.3,70,155/-.

For Appellant : M/s.T.S.Gopalan & Co., - No Appearance
For Respondent : Service awaited

JUDGMENT

The appellant is the complainant. He instituted C.C.No.351 of 1995 on the file of the learned Judicial Magistrate, Guindyattam, under Section 138 of the Negotiable Instruments Act, against the partners of M/s.Ayisha Tanning Company, Chennai. The said firm had issued the complaint cheques and they were presented for collection by the complainant, they got bounced. After following statutory formalities, the aforesaid private complaint was filed by the appellant. The complainant examined himself and another person as P.W.1 and P.W.2 and Exbts. P1 to P18 were marked. On the side of the accused two documents were marked. The learned Judicial Magistrate by judgment dated 15.04.1999 found the accused guilty and imposed sentence of one year imprisonment on them and also awarded compensation of Rs.3,70,155/-

2. Aggrieved by the same, the accused filed criminal appeal in C.A.No.29 of 1999 before the Additional Sessions Judge, Vellore. The first appellate Court on 24.10.2011 allowed the appeal and acquitted the accused. Aggrieved by the same, the present criminal appeal was filed by the complainant.

3. Both the sides are not represented by counsel before this Court. However, this Court taking note of the fact that the appeal is more than 16 years old, proceeds to dispose it of after going through the records and on merits. The complainant had named the accused firm in the cause title and had shown that it is represented by its two partners. Before this Court, one V.S.A.Khader is representing the accused firm as a partner. But, beyond naming him as an accused in the cause title, there is no evidence to show that Thiru.V.S.A.Khader had taken part in the day to day affairs of the firm or was responsible for the conduct of the business of the firm. The learned appellate Judge noted that even during examination under Section 313 of Cr.P.C, it was not put to this accused that he had taken part in the affairs of the firm. I am therefore of the view that the impugned judgment passed by the appellate court acquitting Thiru.V.S.A.Khader is reasonable and correct and does not call for any interference.

4. There is no merit in this appeal. It stands dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

cgi/skm

To

1. The Additional Sessions Judge, Vellore.

2. The Judicial Magistrate, Guiyattam

Cr1.A.No.181 of 2002

vba(co)

nr 18/09/2019