

HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL APPEAL No.1640 of 2006

JUDGMENT:

This criminal appeal is preferred by the complainant, under Sub-section (4) of Section 378 of Cr.P.C., challenging the judgment dated 26.9.2006 in Calendar Case No.622 of 2002 on the file of the Court of Judicial Magistrate of First Class, Narsampet, Warangal District, wherein and whereby the accused was found not guilty of the offence under Section 138 of the Negotiable Instruments Act, and consequently acquitted of the offence.

2. At the time of hearing, learned counsel for the appellant-complainant and the learned counsel for the first respondent-accused submitted that the trial Court has not considered the vital aspects of the case. They further submitted that the trial Court failed to consider the documentary evidence adduced by both the parties in right perspective. They further submitted that either of the parties need not adduce any further evidence in the matter; therefore, the matter may be remanded to the trial Court for fresh disposal basing on the oral and documentary evidence available on record.

3. This Court has carefully perused the judgment of the trial Court. As rightly pointed by the learned counsel for both the parties, the trial Court has not given any specific finding as to whether Ex.P.1- Cheque dated 03.9.2002 stated to be issued by the accused in favour of the complainant in discharge of legally enforceable liability or not.

4. Having regard to the submissions made by the learned counsel for both the parties, this Court is inclined to remit the matter to the trial Court to dispose of the matter afresh.

5. In the result, the criminal appeal is allowed, setting aside the judgment dated 26.9.2006 in Calendar Case No.622 of 2002 on the file of the Court of Judicial Magistrate of First Class, Narsampet, Warangal District. C.C. No.622 of 2002 is remanded to the trial Court, with a direction to dispose the matter afresh, in accordance with law, basing on the material already on record, as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order, without fail. Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Date: 15.2.2018
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T.SUNIL CHOWDARY, J

