

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2019

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.110 of 2008

M/s.T.V.M.Chitfunds (P) Ltd.,
Rep. by its Director T.V.Mylsamy
18, Thirumalaisamy Street
Lakshmi Nagar
Kavundampalayam
Coimbatore-30

...Appellant/Complainant

Vs.

V.Murugesan,
Director

M/s.Veerappa Building Materials (P) Ltd.,
1034, Mettur Road, Erode-2

... Respondent/Accused No.3

PRAYER: Criminal Appeal has been filed under Section 378 of Criminal Procedure Code to allow this Criminal Appeal and set aside the order of acquittal passed by the learned Judicial Magistrate No.1, Coimbatore in C.C.No.832 of 2004 dated 13.12.2007 and allow this appeal by convicting the respondent / accused herein.

For Appellant : Mr.N.Damodaran

J U D G M E N T

This Criminal Appeal has been filed by the appellant to allow this Criminal Appeal and set aside the order of acquittal passed by the learned Judicial Magistrate No.1, Coimbatore in C.C.No.832 of 2004 dated 13.12.2007 and allow this appeal by convicting the respondent herein.

2.The Appellant is the complainant who had filed a private complaint against the respondent and two others for the offence U/s. 138 of Negotiable Instruments Act. The same has been taken cognizance in C.C.No.832 of 2004 before the learned Judicial Magistrate No.1, Coimbatore. The learned Magistrate after an elaborate trial acquitted the respondent / A3 by the Judgment dated 13.12.2007, against which, the present Criminal Appeal has been preferred.

3.The Trial Court examined PW1 and marked Ex.P1 to Ex.P17 and the defence examined two witnesses namely one

C.Krishnamurthi A2 and the respondent /A3 herein in this case and marked Ex.D1 to Ex.D3. The Trial Court convicted A1 i.e. M/s.Veerappa Building Materials (P) Ltd., represented by C.Krishnamurthi and C.Krishnamurthi, the Managing Director, A2. The Trial Court directed A1 to pay a fine of Rs.1,000/- and six months Simple Imprisonment to A2. As regards the respondent / A3, he was acquitted of all charges. Against the acquittal of A3/ respondent herein, the present Appeal has been filed.

4.The Appellant also filed CrI.R.C.No.285 of 2008, seeking enhancement of sentence on the conviction of A1 & A2 in C.C.No.832 of 2004 passed by the learned Judicial Magistrate No.1, Coimbatore on 13.12.2007. This Court by its order dated 20.08.2018, confirmed the conviction imposed against A1 & A2 and the sentence of fine imposed by the Trial Court was modified. A1 & A2 were directed to pay a compensation of Rs.7,08,750/- i.e. the cheque amount and A2 to undergo three months Simple Imprisonment and disposed the Criminal Revision.

5.The learned counsel for the Appellant would contend that despite earnest steps, he was not able to serve notice to the respondent. The Appeal is of the year 2008. Keeping it pending will only add up to the pending of the cases. Further, the grievance of the Appellant has been addressed by this Court in CrI.R.C.No.285 of 2008 and the Appellant endeavour is however to the extent of recovery of his money.

6.In the light of the above, this Criminal Appeal stands dismissed. The Judgment passed by the learned Judicial Magistrate No.1, Coimbatore in C.C.No.832 of 2004 dated 13.12.2007 is confirmed. Consequently, connected miscellaneous petition if any is closed

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Sd/-

Assistant Registrar

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

To

1.The Judicial Magistrate No.1
Coimbatore

2. -Do- Thro' The Chief Judicial Magistrate ,
Coimbatore.

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3. The Public Prosecutor
High Court of Madras

4. The Section Officer
Criminal Section
High Court of Madras

Crl.A.No.110 of 2008

Kak(12/11/2019)



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