

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2019

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl. A.Nos.295 & 296 of 2007

M/s.Mira Industries
Rep. by its Asst. Manager and
Power of Attorney
Mr.N.Rajaguru
S/o.Narayanasamy Naidu
M/s.Cosmic Industries
SF No489/2, Thirunagar, 3rd Street
Coimbatore 641 026 ... Appellant in both Appeals

Vs.

1.M/s.Cascade Elactro Thermic (P) Ltd.,
Cascade Lay Out
No.3, Luna Nagar
Thadagam Road, Coimbatore-25

2.Mr.Mahesh
The Managing Director
M/s.Cascade Elactro Thermic (P) Ltd.
No.3, Luna Nagar
Thadagam Road,
Coimbatore-25

... Respondents in both Appeals

COMMON PRAYER: Criminal Appeal has been filed under
Section 378 of Criminal Procedure Code to set aside the judgment
passed in C.C.No.606 and 699 of 2005 on the file of the Judicial
Magistrate No.I, Coimbatore dated 20.01.2007.

For Appellant : Mr.B.Nedunchezhiyan

For Respondents : Mr.S.Gunalan

COMMON JUDGMENT

These Criminal Appeals have been filed by the appellant to
set aside the judgment passed in C.C.No.606 and 699 of 2005 on

the file of the Judicial Magistrate No.I, Coimbatore dated 20.01.2007.

2.The learned counsel for the appellant would submit that the appellant is the complainant in C.C.No.606 and 699 of 2005. The appellant is the Assistant Manager and Power of Attorney Agent of the appellant firm at Coimbatore Branch. The appellant purchased water heaters of total quantity of 301 numbers from the respondents 1 and 2 and subsequently the same was returned by appellant through two invoice No.14018 and 14019 as per letter dated 11.01.2005. The respondents 1 and 2 have received the returned heaters worth about Rs.4,05,684/- and the same was also acknowledged by the respondents 1 and 2.

3.The learned counsel for the appellant would further submit that the 2nd respondent issued two cheques for a sum of Rs.2,05,684/- and Rs.2,00,000/- on behalf of the 1st respondent to discharge the invoice amount on different dates, drawn on Bharat Overseas Bank Ltd., D.B.Road, R.S.Puram Branch, Coimbatore, bearing No.863708 and 863707 dated 15.03.2005 and 08.03.2005 to discharge payment of the above said invoice amount. When the said cheques were presented for collection through the appellant's bankers viz. HDFC Bank Ltd., Trichy Road, Coimbatore-18 on 19.04.2005 and 17.05.2005 and the same were returned unpaid by the bankers with an endorsement "Exceeds Arrangement". Thereafter, the appellant issued Legal notice to the respondents under Section 138 of Negotiable Instruments Act which was returned with a postal endorsement "unclaimed". The said case was dismissed by the Trial Court against which the present Appeals were preferred.

4.The learned counsel appearing for the respondents would submit that though the case was ended in acquittal, the respondents without going into the merits of the case have filed a memo, agreeing to pay a sum of Rs.2,00,000/- to the appellant as one time settlement. The said proposal was accepted by the appellant.

5.In view of the above agreement arrived between the parties, the learned counsel for the respondent issued to the appellant two demand drafts for sum of Rs.20,000/- and Rs.30,000/- totally for a sum of Rs.50,000/- (Rupees Fifty Thousand only), the same was received by the appellant and he has also made an endorsement in the memo filed by the respondent. The learned counsel for the respondents on instructions would submit that the balance amount of Rs.1,50,000/- will be paid to the appellant in two instalments in the next two months.

7.In view of the above, the respondents are hereby directed to pay a sum of Rs.75,000/- on or before 05.02.2019 and another sum of Rs.75,000/- on or before 05.03.2019, failing which, liberty is granted to the appellant to approach this Court for appropriate orders.

8.With the above direction, these Criminal Appeals are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.I,
Coimbatore.

2.Mr.Mahesh
The Managor Director
M/s.Cascade Elactro Thermic (P) Ltd.
No.3, Luna Nagar
Thadagam Road, Coimbatore-25.

Copy To: The Section Officer
Criminal Section
High Court of Madras

+1 cc to M/s.B.Nedunchezhiyan, Advocate Sr.No.1845

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CSL/06.02.2019

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