



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A.(MD)No.125 of 2013

WEB COPY

Suthakaran Pillai

... Appellant

Vs.

1.A.Velappan Pillai

2.The State of Tamil Nadu,

Represented by the Public Prosecutor,

High Court of Madras-Madurai Bench.

... Respondents

Prayer: Criminal Appeal is filed under Section 378 of Cr.P.C, to set aside the judgment dated 28.09.2012, on the file of the learned District and Sessions Judge, Kanyakumari at Nagercoil, made in C.A.No.123 of 2011, reversing the judgment dated 10.11.2011, on the file of the learned Judicial Magistrate No.I, Kuzhithurai, in C.C.No.339 of 2005.

For Appellant

: Mr.K.N.Thampi

For Respondents

: Mr.A.Robinson

Govt.Advocate (Crl.Side) for R2

: Mr.M.Gnanagurunathan for R1

J U D G M E N T

The appellant was the complainant in C.C.No.339 of 2005, on the file of the learned Judicial Magistrate No.I, Kuzhithurai. It was arisen under Section 138 of Negotiable Instruments Act.

2.The case of the appellant is that the first respondent herein issued Exs.1, 4 and 7 and that those three cheques were dishonoured on presentation. After issuing the statutory notice, the complaint came to be filed. The complainant examined himself as P.W.1 and marked Exs.1 to 15. The accused examined himself as D.W.1 and marked the experts opinion as Ex.D.1.

3.The learned Trial Magistrate by judgment dated 10.11.2011 found the first respondent guilty and sentenced him to one year simple imprisonment and also directed him to pay the compensation amount of Rs.3,10,000/-. Aggrieved by the same, the first respondent filed C.A.No.123 of 2011, before the learned District Judge, Kanyakumari District at Nagercoil. By judgment dated 28.09.2012, the Appellate Judge acquitted the first respondent. Challenging the same, this criminal appeal has been filed by the complainant .

4.When the matter was taken up for hearing, the learned counsel appearing for the accused submitted that he would not



Magistrate and that he would only plead for some time to pay the cheque amount. Therefore, this Court sets aside the impugned judgment passed by the learned Appellate Court and restores the judgment of the Trial Magistrate insofar as the conviction is concerned. In other words, the first respondent is found guilty of the offence under Section 138 of Negotiable Instruments Act. The **(*) first respondent** is directed to pay a sum of Rs.3,10,000/- to the complainant by depositing the same to the credit of C.C.No.339 of 2005, on the file the learned Judicial Magistrate No.I, Kuzhithurai, within a period of three months from the date of receipt of a copy of this judgment. On such deposit, the said amount shall be disbursed as compensation by the Trial Magistrate to the complainant. In the event of failure on the part of the accused to do so, the sentence imposed by the Trial Court would stand restored automatically. The criminal appeal is allowed on these terms.

(*) "4(A). The learned counsel appearing for the first respondent states that some amount had been deposited by the accused at the time of filing an appeal. The same can be withdrawn by the first respondent after he complies with the condition set out in this order."

Sd/-

Assistant Registrar (CO)

**(*)Amended as per order of this
Hon'ble Court dated 19.03.2020**

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

ias

To:

(*)To be Substituted the order already despatched on 30.12.2019

- 1.The District and Sessions Judge,
Kanyakumari.
- 2.The Judicial Magistrate No.I,Kuzhithurai.

3.The Chief Judicial Magistrate, Kanniyakumari at Nagercoil

+1 CC to MR.M.GNANAGURUNATHAN, Advocate (SR-12571)

+1 CC to MR.K.N.THAMPI, Advocate (SR-12401)

CrI.A.(MD)No.125 of 2013

02.08.2019

KM/(17.12.2019) 2P 5C
SMA/08/05/2020/2P/6C (Amended)

<https://hcservices.ecourts.gov.in/hcservices/>