



Crl.O.P.No.31869/2022 in Crl.A.SR.No.47010 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:: 22.12.2022

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Crl.O.P. No.31869 of 2022
in
Crl.A.SR.No.47010 of 2022

R. Periaswamy

.. Petitioner

Vs.

A.L. Karuppaiah
Proprietor of Chettinadu Furniture,
No.85 J.D. Durairaj Nagar,
Aminjikarai, Chennai 600 029

.. Respondent

PRAYER: Petition under section 378(4) of Cr.P.C., to grant Special Leave to appeal against the order of acquittal passed by the learned XIX Metropolitan Magistrate (Allikulam Complex), Chennai – 03 in C.C.No.5207 of 2016, dated 29.08.2022.

For Petitioner : Mr.K. Soundararajan

ORDER

This Criminal Original Petition is filed to grant special leave to prefer the appeal from the order of acquittal passed by the learned XIX Metropolitan Magistrate (Allikulam Complex), Chennai 83 in C.C.No.5207 of 2016, dated



29.08.2022.

WEB COPY 2. The learned counsel for the petitioner contended that from the petitioner/ complainant, the respondent/accused borrowed a sum of Rs.10,00,000/- in the month of January 2016 and to discharge that loan amount, the accused gave a cheque dated 4.3.2016 for Rs.10 lakhs, bearing Cheque No.085074, drawn on Canara Bank, Arumbakkam Branch, Chennai. When the petitioner presented the said cheque for collection, the same was returned with an endorsement 'funds insufficient'. Therefore, the petitioner issued a legal notice and after issuing legal notice, since the respondent did not repay the cheque amount, the petitioner lodged a compliant before the XIX Metropolitan Magistrate Court, Allikulam, Chennai in C.C.No.5207 of 2016.

3. Before the trial court, the petitioner/complainant, examined himself as PW1 and also marked 5 documents as Ex.P.1 to Ex.P.5 and the respondent/accused has examined three witnesses Ex.D.1 to Ex.D.3 and no document was filed as exhibits. The trial court, after considering the material documents and evidence of witnesses, dismissed the complaint on the ground that the disputed cheque was issued in the name of Kumaran Electronics.

The complainant did not let in any evidence to show that he is the owner of



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Kumaran Electronics. Apart from this, the complainant did not let in any evidence regarding the details of receiving Rs.10 lakhs from the respondent. Further, during the cross examination of petitioner, he has stated that he paid the amount to the respondent on various dates and not on a single date. Based on the abovestated two grounds, the trial court dismissed the complaint. The trial court failed to appreciate the fact that the accused did not dispute the issuance of cheque and his signature found in the cheque. Hence he seeks to grant leave to prefer appeal against the acquittal of the respondent from the charges.

4. I have considered the arguments of the learned counsel for the petitioner and perused the materials available on record.

5. On perusal of records, the fact reveals that the petitioner is the complainant in C.C.No.5207 of 2016 on the file of XIII Metropolitan Magistrate, Chennai-9 . He filed a private complaint against the accused for having committed offence u/s.138 of Negotiable Instruments Act with regard to lending of the amount Rs.10 lakhs to respondent herein as hand loan and for repaying the same, he issued disputed cheque for Rs.10 lakhs, bearing cheque No.085074. The trial court in its finding, observed that the disputed cheque has been issued in the name of one 'Kumaran Electronics'



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and the complaint failed to prove that he is the owner of Kumaran Electronics and in what way he is connected with the cheque. Secondly, the complainant had not let in any satisfactory evidence for payment of handloan of Rs.10 lakhs to the respondent during the month of January 2016. Further, during the cross examination, the complainant deposed that on various dates, he lent amount to the accused. Since the complainant failed to discharge his initial burden of proving payment of handloan to the accused and also failed to prove the ownership of Kumaran Electronics, the trial court rightly dismissed the complaint, as no offence is made out against the accused u/s.138 of Negotiable Instruments Act.

6. In view of the above, I find no reason to interfere with the finding of the trial court and in this case, there is no prima facie case made out for granting leave either on fact or on law. Therefore, this criminal original petition is dismissed. Since this Criminal Original Petition is dismissed, the criminal appeal is also rejected at the SR stage itself.

22.12.2022

Index: yes/no

Internet: yes/no

msr

To

1. The Judicial Magistrate I, Tambaram.
2. The Inspector of Police (Law and Order)
S-14, Peerkankaranai Police Station,
Chennai 600 063



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3. The Public Prosecutor,
High Court, Madras.



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V. SIVAGNANAM, J.

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