



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.A.(MD).No.91 of 2022

WEB COPY

A.Selvakumar

...Appellant/Complainant

Vs.

M.Abdul Basheer

...Respondent/Accused

PRAYER: Criminal Appeal filed under Section 378(3) of Criminal Procedure Code, to call for the records of the Judgment dated 11.10.2021 in S.T.C.No.187 of 2019 on the file of the Learned Special Judge for Exclusive Trial of Negotiable Instruments Act, Tirunelveli and set aside the same and convict the Respondent/Accused.

For Appellant : Mr.T.Lajapathi Roy

For Respondent : Mr.Robert Chandra Kumar

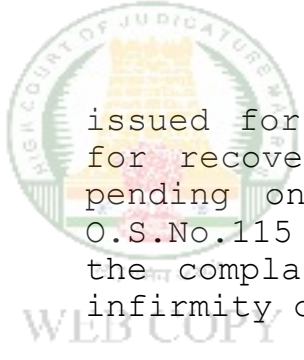
JUDGMENT

This Criminal Appeal has been filed as against the Judgment dated 11.10.2021 in S.T.C.No.187 of 2019 before the Special Court for Exclusive Trial of Negotiable Instruments Act, Tirunelveli, thereby dismissing the complaint lodged by the appellant for the offences punishable under Section 138 of Negotiable Instruments Act.

2. The case of the appellant is that the respondent borrowed a sum of Rs.2,00,000/- and in order to repay the same, he issued cheque for a sum of Rs.2,00,000/-. The cheque was presented for collection and the same was returned for the reason 'funds insufficient'. After issuing statutory notice to the respondent, the appellant lodged complaint for the offence punishable under Section 138 of Negotiable Instruments Act.

3. The respondent examined himself as DW-1 and categorically deposed that he never knew the appellant, whereas, he only knew his father. During the year of March 2010, he borrowed a sum of Rs.50,000/- from the appellant's father. At the time of borrowal, the respondent issued four blank cheques and also executed pro-note in favour of his father. On the strength of the said pro-note, the appellant's father filed a suit for recovery of money in O.S.No.115 of 2013 on the strength of the pro-note dated 05.06.2011.

4. Therefore, the alleged cheque was issued for security purpose at the time of borrowal from the appellant's father. Further, the appellant failed to prove that the alleged cheque was



issued for legal enforcement. Admittedly, his father filed a suit for recovery of money as against the respondent and it is still pending on the file of the Principal Sub Court, Tirunelveli in O.S.No.115 of 2013. Therefore, the Court below rightly dismissed the complaint and acquitted the respondent. This Court finds no infirmity or illegality in the order passed by the Court below.

5. Accordingly, this Criminal Appeal is dismissed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Judge,
Special Court for Exclusive Trial of
Negotiable Instruments Act, Tirunelveli.

Copy to:

The Principal Sub Judge, Tirunelveli.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate(SR-8821[F] dated 25/02/2022)

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MGJ(17.03.2022) 2P 4C