



Crl.O.P.No.4550 of 2023 in Crl.A.Sr.No.7351 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2023

CORAM

THE HON'BLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.4550 of 2023

in

Crl.A.Sr.No.7351 of 2023

T.S.Bhaskaran

... Petitioner

Vs.

K.R.Rajkumar

... Respondent

Prayer:- Criminal Original Petition has been filed under Section 378(4) of Cr.P.C., praying to grant leave to file appeal against acquittal judgment dated 26.12.2022 passed by the learned Judicial Magistrate, Sriperumbudur in S.T.C.No.652 of 2018.

For Petitioner : Mr.N.Sudharsan

ORDER

This Criminal Original Petition has been filed by the petitioner/complainant to grant leave to file an appeal against the judgment dated 26.12.2022 made in S.T.C.No.652 of 2018 on the file of the learned Judicial Magistrate, Sriperumbudur.

2. The learned counsel for the petitioner contended that the



CrI.O.P.No.4550 of 2023 in CrI.A.Sr.No.7351 of 2023

respondent/accused borrowed a sum of Rs.6,00,000/- in year 2016 from the complainant and in order to repay the loan amount he had issued a cheque bearing No.944673 dated 27.12.2017 drawn on HDFC Bank, Valasaravakkam branch for a sum of Rs.8,46,000/-. When the cheque was presented for collection, it was returned with an endorsement “Account closed”. Therefore, the statutory notice was caused on the accused and the said notice has been returned with an endorsement “unclaimed”. Hence the complaint was filed.

3. Before the Trial Court, the complainant examined himself as PW.1 and marked 8 documents as Ex.P1 to Ex.P8. The respondent/accused examined himself as DW.1 and also marked 10 documents as Ex.D1 to Ex.D10. The Trial Court, vide judgment dated 26.12.2022 acquitted the respondent from the charges levelled against him under Section 138 of Negotiable Instruments Act.

4. The learned counsel for the petitioner further submitted that



Crl.O.P.No.4550 of 2023 in Crl.A.Sr.No.7351 of 2023

without appreciating the evidence adduced by the petitioner in proper perspective and without affording sufficient opportunities as contemplated under law, the Trial Court has passed the impugned acquittal order and hence, leave may be granted to file the present Criminal Appeal.

5. Heard the learned counsel for the petitioner. I have perused the materials on record.

6. On a perusal of the impugned judgment in paragraph 14 to 19, the Trial Court had elaborately discussed the averments contained in the complaint and found that the complaint is untrue. The averments in the complaint states that the disputed amount of Rs.6,00,000/- had been lent by the complainant to the accused on 15.04.2016 for the purpose of purchasing house, whereas the accused let in the evidence that he had purchased the house in the year 2012 and thus falsified the averments contained in the complaint. Besides that, the disputed cheque bearing Number 944673 was issued on 27.12.2017 but the corresponding serial numbers of the cheques.



Crl.O.P.No.4550 of 2023 in Crl.A.Sr.No.7351 of 2023

WEB COPY

The cheque series 944675 was issued on 18.08.2012 etc. Therefore, the Trial Court had arrived at a conclusion that the disputed cheque bearing No.944673 has not been given on the alleged date as stated by the complainant in the complaint and disbelieved the evidence of the complainant and thereby acquitted the accused.

7. Therefore, this Court does not find any infirmity or irregularity in the acquittal order passed by the Trial Court and no *prima facie* case has been made out either on facts or law and there is no merit in this case. As such, this Court is inclined to dismiss the petition.

8. This Criminal Original petition is dismissed accordingly.

27.02.2023

rpl

To

4 of 6



CrI.O.P.No.4550 of 2023 in CrI.A.Sr.No.7351 of 2023

The Judicial Magistrate, Sriperumbudur.

V.SIVAGNANAM, J.,

rpl



WEB COPY



Crl.O.P.No.4550 of 2023 in Crl.A.Sr.No.7351 of 2023

Crl.O.P.No.4550 of 2023
in
Crl.A.Sr.No.7351 of 2023

27.02.2023