



Crl.A.No.410 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.06.2023

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THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

Crl.A. No.410 of 2020

Selvamani

... Appellant

-Vs.-

J.Palani Samy

.. Respondent

Criminal Appeal has been filed under Section 378 of Cr.P.C.,
to set aside the Judgement in S.T.C.No.114 of 2015 dated
09.07.2020 by the Judicial Magistrate No.1, Chidambaram.

For Appellant : Mr. R.Sethuvarayar

For Respondent : Mr. A.S.Baalaji



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JUDGMENT

This appeal is preferred by the complainant being aggrieved by the dismissal of the Summary Trial Case under Section 138 of the Negotiable Instruments Act on the ground that the complainant has failed to prove the cheque issued for legally enforced debt. Further, the Trial Court has believed the deposition of D.W.1 and D.W.2, who have spoken about the execution of pro-note and the cheque as a security for a loan of a sum of Rs.40,000/-.

2. The learned counsel appearing for the appellant / complainant primarily submitted that on the side of the complainant three witnesses were examined and eight exhibits were marked, whereas, the Trial Court had failed to consider the documents marked as Ex.P.6 to Ex.P.8. P.W.3, Vimal, the Assistant Manager of Bank of India, Chidambaram Branch has spoken about the transaction of the subject cheque. The Trial Court has miserably



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failed to appreciate the evidence in proper perspective and arrive at a right conclusion.

3. This Court on verifying the record finds that P.W.3, Vimal, the Assistant Bank Manager, Bank of India, Chidambaram Branch has been examined as P.W.3 on 16.02.2018, through him, the complainant has marked Ex.P.6 to Ex.P.8. Unfortunately, the Trial Court has neither discussed about these three documents nor mentioned about these three documents in the list of complainant side exhibits. This omission and error leads to an inference that the Trial Court has not applied its mind properly on a whole to arrive at a right conclusion.

4. Therefore, the Criminal Appeal is allowed and the order passed in S.T.C.No.114 of 2015 is set aside. The matter is remanded back to the Trial Court, namely, the Judicial Magistrate I, Chidambaram for a fresh consideration of all the exhibits marked



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by the complainant and evidences before it and pass orders, within a period of 30 days, from the date of receipt of a copy of this order.

No costs.

05.06.2023

Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

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To

1. The Judicial Magistrate No.1,
Chidambaram.



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Dr.G.JAYACHANDRAN.J.,

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