



WEB COPY



Crl.O.P.No.31968 & 31972 of 2022in Crl.A.Sr.Nos.62163 & 62167/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.31968 & 31972 of 2022

in

Crl.A.Sr.Nos.62163 & 62167 of 2022

A.Rangasamy

... Petitioner in both cases

Vs.

K.S.Manoharan  
cases

... Respondent in both

**COMMON PRAYER :** Criminal Original Petitions have been filed under sections 378(4) of Criminal Procedure Code to grant special leave to prefer appeal from the order of acquittal passed by the II Additional District and Sessions Judge, Tiruppur in Crl.A.Nos.26 & 27 of 2020 dated 18.08.2022.

For Petitioner : Mr.S.Karthikei Balan

**COMMON ORDER**

These Criminal Original Petitions have been filed to grant leave to the petitioner/appellant to file the appeals against the judgments dated 18.08.2022 passed in Crl.A.Nos.26 & 27 of 2020 by the learned II Additional District and Sessions Judge, Tiruppur.



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2. The learned counsel for the petitioner contended that the complainant filed a private complaint against the respondent/accused under Section 138 of Negotiable Instruments Act for dishonour of cheques bearing Nos.371064 & 371065 dated 25.01.2016 and 30.01.2016 for Rs.42,42,000/- and Rs.15,00,000/- issued by him. The accused issued the cheques in the way of discharging the liability for the purchase of land on 16.02.2012 for a sale consideration of Rs.42,42,000/- and for the interest of Rs.15,00,000/-. When the cheques were presented for collection, the same were returned with an endorsement as “Account Closed”. After issuing statutory notice, criminal complaints have been filed. The said complaints were taken cognizance by the learned Judicial Magistrate, Palladam and assigned S.T.C.Nos.875 & 1034 of 2016. The Trial Court, vide judgment dated 19.08.2020, convicted the accused and sentenced him to undergo one year Simple Imprisonment in each cases and also pay compensation of Rs.42,42,000/- and Rs.15,00,000/-, in default to undergo Simple Imprisonment for three months in each cases. Against which, the accused has preferred appeals in C.A.Nos.27 & 26 of 2020 before the II Additional District and Sessions Judge, Tiruppur. The learned counsel for the petitioner further submitted that, without appreciating the evidence adduced by the



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petitioner in proper perspective, the first appellate court has passed the impugned acquittal order and hence, leave may be granted to file Criminal Appeals.

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

4. On perusal of the records, the fact reveals that the petitioner/complainant filed a complaint against the respondent/accused based upon the dishonoured cheques. The Appellate Court in paragraph 13 of its judgment observed that the alleged cheques were given in a way of discharging of the unpaid sale consideration of Rs.42,42,000/-, which was registered on 16.02.2012. According to the complaintant, on the date of registration, no sale consideration was paid for 22 plots, only after four years, the alleged cheques have been issued by the accused. The respondent has claimed that the cheques were issued for security purpose to one Loganathan while obtaining loan that have been misused by him, his friend and the complainant. The Appellate Court after appraising the evidence let in by the parties come to the conclusion that the alleged registration took place on 16.02.2012 and the entire sale consideration



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has been paid by respondent. The cheques dated 25.01.2016 is unbelievable and apart from that the complainant has not let any specific evidence that the disputed cheques have been given only for discharging the sale consideration of Rs.42,42,000/- and for the interest of 15,00,000/-. Under these circumstances, in the absence of sufficient evidence of initial burden of the sale consideration of Rs.42,42,000/- is payable by the accused, the Appellate Court reversed the finding of the trial Court and acquitted the accused. In this circumstance, *prima facie*, there is no case for re-appreciating the evidence both on facts and law. As such, this court is not inclined to grant leave to the petitioner.

5. Accordingly, these Criminal Original petitions are dismissed.

**09.01.2023**

rpl

**To**

The II Additional District and Sessions Judge, Tiruppur.



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**V.SIVAGNANAM, J.,**

rpl

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