



Crl.A.No.481 of 2017

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2024

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.A.No.481 of 2017

S.Selvan

... Appellant

Vs.

R.Chandrasekaran

... Respondent

Prayer : Criminal Appeal filed under Section 378 of Criminal Procedure Code 1973 to set aside the judgement dated 06.01.2016 in C.C.No.98/2007 passed by the Judicial Magistrate No.I, Cuddalore.

For Appellant : Mr.A.K.Velan
for Mr.E.Sathyaraj
For Respondent : Mr.K.Jayabalan

JUDGMENT

Challenging the order of acquittal dated 06.01.2016 in C.C.No.98/2007 passed by the Judicial Magistrate No.I, Cuddalore, the present appeal is filed by the appellant / complainant.



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2. The case of the complainant is that the respondent / accused borrowed a sum of Rs.3,00,000/- on 10.10.2006 as a hand loan from him and issued a cheque dated 03.01.2007 drawn on ICICI Bank, Cuddalore.

2.1. When the complainant presented the cheque for collection through his bankers, namely, PACB Bank, Nallathur, the same was returned for the reasons 'Insufficient Funds'.

2.2. Thereafter, the complainant issued a statutory notice dated 29.01.2007 to the accused calling upon him to pay the amount due under the cheque within 15 days from the date of receipt of the notice.

2.3. The said legal notice was returned with a postal endorsement 'not claimed'.

2.4. Therefore, the complainant filed a private complaint before the Judicial Magistrate No.I, Cuddalore, under Section 200 Cr.P.C. against the accused for the offence punishable under Section 138 of the Negotiable Instruments Act (N.I. Act) in C.C.No.98/2007.

2.5. The learned Judicial Magistrate No.I, Cuddalore, took cognizance of the offence under Section 138 of the Negotiable



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2.6. On the appearance of the accused, the copies of records were furnished to him under Section 207 Cr.P.C. The substance of accusation made in the complaint was put to the accused and since he pleaded not guilty, the case was posted for trial.

2.7. The complainant examined himself as P.W.1. However, he did not mark any documentary evidence.

2.8. When the accused was questioned under Section 313 of Cr.P.C., with regard to the incriminating circumstances appearing in evidence against him, he denied of having committed any offence.

2.9. The learned trial court judge after analysing the oral evidence on record acquitted the accused for the offence punishable under Section 138 of the Negotiable Instruments Act.

2.10. Aggrieved over the same, the present appeal is filed by the complainant.



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3. Heard Mr.A.K.Velan, learned counsel for the appellant and Mr.K.Jayabalan, learned counsel for the respondent.

4. A persual of the records shows that though the complainant filed the cheque dated 03.01.2007, statutory notice dated 29.01.2007 and returned cover and other documents along with his proof affidavit, the same had not been marked as exhibits by the learned trial court judge. None of these documents have been referred in the judgment also. Therefore in the interests of justice, the case is remitted back to the Judicial Magistrate No.I, Cuddalore to mark all the documents filed along with the proof affidavit and dispose of the case in accordance with law.

5. The learned Judicial Magistrate No.I, Cuddalore is also directed to dispose of the case as expeditiously as possible but not later than six months from the date of receipt of this order.



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6. Accordingly, this Criminal Appeal is disposed of.

12.06.2024

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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To

1.The Judicial Magistrate No.I, Cuddalore.

2.The Public Prosecutor, High Court, Madras.

3.The Section Officer, Criminal Section, Madras High Court, Chennai.



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R. HEMALATHA, J.

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