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Crl.A.No.561 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2024

CORAM

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

Crl.A.No.561 of 2014

K.Dhanalakshmi

... Appellant

Vs.

Kumar

... Respondent

Prayer : Criminal Appeal filed under Section 378 (4) of Criminal Procedure Code, to set aside the orders passed in S.T.C.No.203/2012 by the District Munsif cum Judicial Magistrate at Neyveli, dated 05.03.2014.

For Appellant : Mr.V.Ayyadurai,
Senior Counsel assisted by
Mr.V.B.Perumal Raj

For Respondent : Mr.V.Rajamohan

JUDGMENT

Challenging the orders passed in S.T.C.No.203/2012, dated 05.03.2014 by the learned District Munsif cum Judicial Magistrate, Neyveli, the present Criminal Appeal is filed by the complainant.



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2. For the sake of convenience, the parties are referred to as per their ranking in the trial Court.

3. The brief case of the appellant / complainant is as follows:

- i. The accused borrowed a sum of Rs.12,00,000/- from the complainant on 05.02.2012 and in order to liquidate the same, the accused issued a cheque bearing No.406776, dated 23.04.2012 drawn on Indian Bank, Neyveli Township Branch.
- ii. When the cheque was presented for collection by the complainant through his banker viz., State Bank of India, Manjakuppam, Cuddalore Branch, the same was returned on 03.05.2012 for the reason 'insufficient funds'.
- iii. Thereafter, the complainant issued a statutory notice to the accused on 16.05.2012, demanding the latter to pay the amount due under the cheque.
- iv. The accused though received the notice on 17.05.2012, did not come forward to make good the payment and did not also issue any reply notice.



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v. Therefore the complainant filed a private complaint under Section 200 Cr.P.C. against the accused for an offence punishable under Section 138 of the Negotiable Instruments Act in S.T.C.No.203/2012 before the District Munsif cum Judicial Magistrate at Neyveli.

4. The learned District Munsif cum Judicial Magistrate, Neyveli took cognizance of the offences and issued summons to the accused under Section 204 Cr.P.C. 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 the accused pleaded not guilty, the case was posted for trial.

5. Since the complainant did not appear before the trial Court, the complaint was dismissed on 05.03.2014 under Section 256 (1) Cr.P.C., and the accused was acquitted. Aggrieved over the same, the complainant has filed the present Appeal before this Court.



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6. It is seen from the records that the case in S.T.C.203/12 was posted on 29.11.2013, 12.12.2013, 19.12.2013, 31.12.2013, 22.01.2014, 29.01.2014 and lastly on 04.02.2014 and on all these occasions, the complainant did not appear before the trial Court. Hence, the complaint was dismissed.

7. However, the case was not disposed of on merits and no notice was issued by the trial Court either to the complainant or his counsel before dismissing the complaint. The cheque dated 23.04.2012 is for a sum of Rs.12,00,000/- and in the facts and circumstance, I hold that it is just and necessary to remit the case back to the trial Court for fresh disposal on merits.

8. Accordingly, the case is remitted back to the trial Court viz., the District Munsif cum Judicial Magistrate, Neyveli. Both the appellant / complainant and the Respondent / accused are directed to appear before the trial Court on **20.05.2024**, failing which, the District Munsif cum



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Judicial Magistrate, Neyveli can take appropriate steps to secure their presence. The District Munsif cum Judicial Magistrate, Neyveli is also directed to dispose of the case in S.T.C.No.203/2012 on merits, within a period of three months thereafter.

9. With the above directions, this Criminal Appeal stands disposed of.

10.04.2024

Index: Yes/No
Speaking/Non-Speaking order
Neutral Citation : Yes / No
vum

To

1. The District Munsif cum Judicial Magistrate,
Neyveli.
2. The Section Officer,
VR Section,
Madras High Court,
Chennai.



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R.HEMALATHA, J.

vum

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