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Crl.A.No.178 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.A.No.178 of 2021

M/s.Mariya Hides,
Represented by its Proprietor,
S.Mary Stella
Represented the Power of Attorney and his Manager,
N.Stephan ... Appellant

Vs.

M/s.Vikas International,
Represented by its Proprietor-cum-
Authorised Signatory,
K.M.Senthuraman,
No.75, Pari Colony,
Ranipettai - 632 401,
Vellore District. ... Respondent

PRAYER : Criminal Appeal filed under Section 378 (4) of Criminal Procedure Code, 1973, to call for the records relating to order dated 07.01.2021 made in S.T.C.No.210 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court No.I, Erode and set aside the same by allowing the above criminal appeal.



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For Appellant : Mr.N.S.Suganthan
For Respondent : Mr.C.Venkatesan

J U D G M E N T

The criminal appeal has been filed seeking to set aside the judgment dated 07.01.2021 passed by the learned Judicial Magistrate, Fast Track Court No.I, Erode in S.T.C.No.210 of 2018.

2. The petitioner is doing leather business and the respondent is also doing the same business. It is the case of the petitioner that the respondent has purchased 'wed blue cow hides' from the petitioner company on credit basis as per Invoice No.10, dated 02.01.2015 and Invoice No.5, dated 06.09.2016. In the course of business transaction, the respondent had a due to the tune of Rs.6,55,564/- to be paid to the petitioner. On demand to repay the same, the respondent issued cheque No.000305 dated 05.03.2018 for a sum of Rs.6,55,564/- to discharge the said liability. However, the said cheque, upon deposit was returned by the petitioner's bankers on



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07.03.2018 on the ground of insufficient funds. Therefore, the petitioner caused a legal notice to the respondent on 05.04.2018, which was received by the respondent on 06.04.2018, but no reply was sent by the respondent. Therefore, the petitioner was constrained to file the complaint.

3. Upon issuance of summons, the respondent appeared and was served with the copies of the documents and as the respondent pleaded not guilty, the Court below proceeded with the trial of the case. At the time of trial, on the side of the petitioner, P.W.1 was examined and Exs.P1 to P11 were marked. On the side of respondent, D.W.1 and D.W.2 were examined and Exs.D1 and D2 were marked. On the basis of oral and documentary evidence, the Court below found the respondent not guilty of the offence and, accordingly, acquitted the respondent, aggrieved by which the present appeal has been filed by the appellant.

4. Heard Mr.N.S.Suganthan, learned counsel for the appellant and Mr.C.Venkatesan, learned counsel for the respondent.



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5. The learned counsel appearing for the appellant submitted that this Court, without going into the merits of the case may grant liberty to the petitioner to approach the Civil Court for recovery of money by producing pro note and impugned cheques and further prayed that the period during the pendency of S.T.C.No.210 of 2018 before the Court below and the criminal appeal before this Court may be excluded for the purpose of limitation.

6. In view of the above, this Criminal Appeal is dismissed with the above liberty. The period during the pendency of S.T.C.No.210 of 2018 before the Court below and the criminal appeal before this Court for the purpose of limitation, would be available if the petitioner is otherwise entitled to in accordance with law.

12.04.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To

The learned Judicial Magistrate,
Fast Track Court No.I,
Erode.



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M.DHANDAPANI, J.

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