



Crl.O.P.No.18746 of 2024 in Crl.A.SR.No.32664 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.No.18746 of 2024 in
Crl.A.SR.No.32664 of 2024

D.Vijayarangan

... Petitioner

Vs.

B.Narayana Moorthy

... Respondent

PRAYER: Criminal Original Petition is filed under Section 378(5) of Code of Criminal Procedure, to grant special leave to file Appeal against the judgment of acquittal passed in S.T.C.No.7746/2022, dated 15.05.2024 by the learned XXVI Metropolitan Magistrate at Egmore, Chennai.

For Petitioner : Mr.T.Shanmugaboopathi
For Respondent : Mr.C.Prabhu

ORDER

This Criminal Original Petition has been filed to grant leave to file appeal against the judgment of acquittal passed in S.T.C.No.7746 of 2022 on 15.05.2024 by the learned XXVI Metropolitan Magistrate, Egmore,



Chennai.

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2.The case of the petitioner is that the respondent had borrowed a sum of Rs.1,50,000/- and had paid interest; that towards the part payment of the said loan, the respondent had issued a cheque for Rs.25,000/-; and that when the said cheque was presented for collection, it was returned for the reason “Funds Insufficient” and in spite of statutory notice, the respondent did not make any payment.

3.The Trial Court found on facts that the respondent had paid the total sum of Rs.2,22,000/- to the petitioner on various dates based on Exs.D1 & D2 namely Statement of Accounts and the details of the payments made by the respondent through Google Pay. The Trial Court, therefore, found that the petitioner had not established that the cheque was issued in discharge of liability; that the petitioner had also admitted in the cross examination that the respondent sought for return of the cheque and the petitioner on reply stated that he would do it later.



4.The learned counsel for the petitioner would submit that after reconciliation of the accounts, it was found that the respondent was due to pay a sum of Rs.48,000/-; that it is only towards discharge of the said liability, the respondent had issued the cheque for Rs.25,000/- and therefore the finding of the Trial Court is erroneous and prayed for grant of leave to file appeal against the judgment of acquittal.

5.The learned counsel for the respondent *per contra* would submit that the evidence adduced before the Trial Court clearly discloses that the respondent had paid in excess of what was due to the petitioner and therefore the petitioner is not entitled to the cheque amount.

6.On perusal of the impugned judgment, it is seen that the Trial Court had taken into consideration Exs.D1 & D2 namely the Statement of Account and the payments made through Google Pay to conclude that the respondent had paid a sum of Rs.2,22,000/- to the petitioner on various dates; that the petitioner had not disclosed the said facts in the complaint; that the petitioner had also admitted in the cross examination that the respondent



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had sought for return of the cheque for which the petitioner is said to have told the respondent that he would handover the cheque later.

7.Considering the above facts, the Trial Court had acquitted the respondent. It cannot be said that the finding of the Trial Court is perverse, so as to warrant an interference in the appeal against acquittal. Therefore, this Court is of the view that the petitioner has not made out any ground to grant leave to file appeal against the judgment of acquittal.

8.In the result, this Criminal Original Petition stands dismissed. Consequently, the Criminal Appeal is rejected at the SR stage itself.

04.12.2024

Index:Yes/No
Neutral Citation: Yes/No
Speaking Order/Non Speaking Order

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To

The XXVI Metropolitan Magistrate,
Egmore, Chennai.



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SUNDER MOHAN, J.

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