



Crl.A.No.529 of 2017

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2024

CORAM

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

Crl.A.No.529 of 2017

S.Jayanthi

... Appellant

Vs.

P.Sukumaran

... Respondent

Prayer : Criminal Appeal filed under Section 378 Criminal Procedure Code 1973 against the judgement and orders dated 06.03.2017 passed in S.T.C.No.196/2015 by the Judicial Magistrate, Fast Track Court, Magisterial Level, Ambattur.

For Appellant : Mr.D.P.Saravanan
Legal Aid Counsel

For Respondent : Mr.T.Muruganatham

JUDGMENT

Challenging the order of acquittal dated 06.03.2017 passed in S.T.C.No.196/2015 by the Judicial Magistrate, Fast Track Court,



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Magisterial Level, Ambattur, the present appeal is filed by the appellant / complainant.

2. For the sake of convenience the parties are referred to as per their ranking in the trial court and at appropriate places, their ranks in the present appeal would also be indicated.

3. The case of the appellant / complainant in a nutshell is as follows :

3.1. The accused P.Sukumaran and his wife S.Lakshmi @ Rosy were running a chit fund business at No.509, Suryakanthi Street, Poompozhi Nagar, Avadi, Chennai – 600 062. The complainant was a subscriber to one of the chits for a sum of Rs.2,00,000/- with a monthly subscription of Rs.20,000/-. During October 2013, the accused borrowed a sum of Rs.1,00,000/- from the complainant and despite repeated demands made by the complainant, the accused did not repay the outstanding amount of Rs.2,80,000/-. However, after much persuasion by the complainant, the accused issued a cheque bearing number 859883



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dated 11.04.2014 (Ex.P1) for a sum of Rs.2,80,000/- drawn on Andhra Bank, Avadi Branch, Chennai, in favour of the complainant, during second week of April 2014.

3.2. When the complainant presented the cheque for collection on 26.04.2014 through her bankers, namely, State Bank of India, HVF Estate Branch, Avadi, Chennai, the same was returned for the reason “55-Account Blocked situation covered in 2125”, as is seen from the cheque return memo dated 28.04.2014 (Ex.P2).

3.3. Thereafter, the complainant issued a statutory notice dated 02.05.2014 (Ex.P3) to the accused calling upon him to pay the amount due under the cheque within fifteen days from the date of receipt of the notice.

3.4. The accused received the statutory notice on 09.05.2014, as is evidenced by the postal acknowledgement card (Ex.P4) and sent a reply notice dated 30.05.2014 (Ex.P6), which according to the



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complainant contained false allegations.

3.5. Therefore, the complainant filed a private complaint before the Judicial Magistrate, Fast Track Court, Magisterial Level, Ambattur, under Section 200 Cr.P.C. against the respondent / accused for an offence punishable under Section 138 of the Negotiable Instruments Act (in short N.I. Act) in S.T.C.No.196/2015.

3.6. The learned Judicial Magistrate took cognizance of the offence under Section 138 of N.I. Act and issued summons to the accused under Section 204 Cr.P.C.

3.7. 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.



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3.8. The complainant examined herself and three other witnesses and marked Ex.P1 to Ex.P8.

3.9. The accused, when questioned under Section 313 of Cr.P.C., with regard to the incriminating circumstances appearing in evidence against him, denied of having committed any offence. However, he did not examine any witness on his side.

3.10. The learned trial court judge after analysing the oral and documentary evidence on record found the accused not guilty of the offence under Section 138 of N.I. Act and acquitted him under Section 255(1) Cr.P.C., vide his judgment and orders dated 06.03.2017, aggrieved over which, the present appeal is filed by the complainant.

4. On an application filed by the appellant / complainant to the High Court Legal Services Committee Mr.D.P.Saravanan (Enrol. No.1597/2014) was appointed as Legal Aid Counsel for the appellant on

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02.07.2024.

5. Heard, Mr.D.P.Saravanan, learned Legal Aid Counsel for the appellant and Mr.T.Muruganatham, learned counsel for the respondent.

6. It is seen from the records that the accused was running a chit fund business in which the complainant was a subscriber. According to the complainant, she had paid a sum of Rs.1,80,000/- to the accused towards chit transactions and another sum of Rs.1,00,000/- as a hand loan. It is further submitted that on 11.04.2014 the accused issued a cheque (Ex.P1) to discharge his liability towards her. The cheque (Ex.P1) was returned for the reason '55-Account Blocked situation covered in 2125'. The Branch Manager of Andhra Bank was examined as P.W.2 and he had stated that if a customer does not operate the bank account for more than 1½ years the account would be closed. He also had categorically stated that the signature of the cheque found on Ex.P1 does not tally with signature of the accused in the account opening form. Moreover, the complainant had not specifically mentioned the date on

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which she lent a sum of Rs.1,00,000/- to the accused either in her complaint or in her statutory notice (Ex.P3). The trial court judge after analysing all these aspects had come to a conclusion that the complainant had not proved her case by adducing acceptable evidence and in the circumstances, I do not see any reason to interfere with the same.

7. In the result,

- i. This Criminal Appeal is dismissed.
- ii. The judgement and orders dated 06.03.2017 passed in S.T.C.No.196/2015 by the Judicial Magistrate, Fast Track Court, Magisterial Level, Ambattur, is confirmed.
- i. This Court places on record its appreciation to Mr.D.P.Saravanan learned Legal Aid counsel, for his valuable assistance in deciding this case. The High Court Legal Service Committee shall pay his fees in accordance with rules.

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Index : yes/no

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Speaking /Non speaking Order
mtl

Copy to

The Secretary,
High Court Legal Services Committee,
High Court Campus, Chennai 104.

To

- 1.The Judicial Magistrate, Fast Track Court, Magisterial Level, Ambattur.
- 2.The Public Prosecutor, High Court, Madras.
- 3.The Section Officer, Criminal Section, Madras High Court, Chennai.



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R. HEMALATHA, J.

mtl

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