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Crl.A.(MD).No.373 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 17.10.2024

DELIVERED ON : 27.11.2024

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.A.(MD).No.373 of 2022

K.M.Sakthivel

... Appellant/Complainant

Vs.

1.S.A.Rajendran
S/o Aathimoolam,
Proprietor,
Om Sri Sathuragiri Agencies,
Suppanchetti Street,
Theni Taluk,
Theni District.

2.S.A.Rajendran

... Respondents/Accused

Prayer: Criminal Appeal has been preferred under Section 378(4) Cr.P.C., to call for the records relating to the Judgment passed in S.T.C.No.7 of 2021, on the file of the Judicial Magistrate (Fast Track Court) (ML) Theni, dated 29.12.2021 and set aside the same and to convict the respondent.

For Appellant : Mr.C.Vakeeswaran

For Respondents : Mr.C.Jeganathan



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J U D G M E N T

This Criminal Appeal has been filed by the appellant to set aside the Judgment passed in S.T.C.No.7 of 2021, on the file of the Judicial Magistrate (Fast Track Court) (Magisterial Level) Theni, dated 29.12.2021

2.The complainant filed a complaint with the following averments:

The accused and the complainant are friends. The accused approached the complainant for financial assistant for developing his company called Om Shri Sadhuragiri Agencies. A sum of Rs.6,00,000/- was paid as loan amount on 20.08.2020. The accused promised to repay the same, within two months. On 23.10.2020, he issued a cheque drawn on Karur Visya Bank, Theni and asked the complainant to present it for payment on 23.10.2020 itself. Believing the words of the accused the cheque was presented for payment, but it came to be returned due to insufficient funds on 26.10.2020. When the complainant approached the accused, there was no proper response. So after complying the statutory formalities, he filed a private complaint.

2.On the side of the complainant he himself was examined as PW1 before the trial Court and five documents were marked. On the side of



the respondent one witness was examined and five documents were marked.

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4.After full trial, the trial Court found that the complainant has not proved the case beyond all reasonable doubt and acquitted the accused. Against which this appeal is preferred by the complainant.

5.It is a Judgment of acquittal. We will go to the findings and the evidence available on record. The accused has not denied his signature in the disputed cheque. But, it was contended by the accused that there was no transaction between the complainant and himself. He handed over the signed cheques and other documents to one Navaneetha Krishnan. Against that Navaneetha Krishnan, he gave a complaint. During the course of police enquiry, this complaint was also enquired. So there was no connection between the complainant and the accused. There was no transaction between them. These were the main grounds raised by the accused. The transaction between Navaneetha Krishnan and the accused is elaborated in the reply notice dated 19.11.2020, under Ex.P5, wherein, it has been stated that one Kumaran and Navaneetha Krishnan were known to the accused. In the month of June 2019, they approached him stating that 3 houses are coming for sale. They introduced the owner. He obtained power of attorney from the owners and paid Rs.74,00,000/-. At that time, he handed over the



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original sale deed to Navaneetha Krisnan, but by mistake along with the above said documents, he gave two signed blank pronotes, twenty rupee stamp paper and two signed cheques. Later, he was cheated by the above said persons and so complaint was given before Anti Land Grabbing Cell. So one of the cheque was misused by the Navanatheekrishnan through the complainant.

6.The accused examined himself as DW1 and repeated the very same averments through evidence. It is the contention on the part of the complainant that the issue between the accused and Navaneetha Krishnan is no way related to him. Now the question which arises for consideration is whether in view of the above said contention of the accused and his evidence, the finding of the trial Court is sustainable under law.

7.As per the case of the complainant on 20.08.2020, the accused borrowed as sum of Rs.6,00,000/- and issued post dated cheque. But on 29.06.2020, the accused sent a complaint under Ex.D3 setting out the above said facts. There is specific averment pertaining to cheque numbers 000217, 000218 drawn on Karur Visya Bank. Now the present subject cheque No. 000217 of Karur Visya Bank. Along with Ex.D3, he has produced the postal acknowledgment card of the officials dated 02.07.2020. So this itself is



sufficient enough to probabalise the case of the defence that there is no transaction between the complainant and the accused. Against which absolutely there is no evidence let in by the complainant to show that on the date mentioned in the complaint, the transaction took place between himself and the accused.

8.Now in the light of the above said, we will go to the arguments advanced by the appellant. As mentioned above, according to the appellant, since the signature in the disputed cheque is not denied by the accused, automatically presumption under Section 139 of the Negotiable Instruments Act comes into place; The accused has not probabalised his defence, since the complaint is not related to the present subject; There was no complaint given by the accused to the Bank regarding the missing of the cheques; Even in reply notice itself, the accused has not mentioned about the particulars of the date and place, where the cheques were handed over to the Navaneetha Krishnan; To prove that enquiry was undertaken by DCB, no evidence was let in.

9.But none of these arguments are acceptable, more specifically in the light of the above said Ex.D3 and acknowledgment card. This was taken into account by the trial Court and recorded a finding that even though



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accused has probalised the defence, there is no convincing evidence on the side of the complainant to prove the transaction. I find absolutely no error in the above said finding. It is based upon evidence and circumstances, which requires no interference.

10. Therefore, this appeal fails and accordingly, stands dismissed.

27.11.2024

NCC: Yes/No
Index: Yes/No
Internet: Yes/No
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To

1. The Judicial Magistrate, Fast Track Court, Magisterial Level, Theni.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVA, J

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