

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL APPEAL NO: 821 OF 2018

Criminal Appeal Under Section 378(4) of Cr.P.C against the Judgment Dated 09-12-2015 in C.C. No. 229 of 2015 (old CC.No. 169 of 2015) on the file of the Court of the VI Special Magistrate at Hyderabad.

Between:

M/s. Shyam Solvex (I) PVT. LTD., rep by its Manager Mr Sunil Murali, S/o Govindrao Aged 36 years, Occ business, having their office at 15-2-417/B, 211 and 212 and 2nd floor, Lank Mark, Siddiambar Bazar, Hyderabad.

...APPELLANT/COMPLAINANT

AND

1. G. Singa Rao, Prop of M/s. G Singa Rao Poultry Farm, BV Rao Nagar, Chattanpally, Shadnagar-509216, Mahaboobnagar District.

...RESPONDENT/ACCUSED.

2. State of Telangana, Rep by its PP, City Criminal Court, High Court at Hyderabad.

...RESPONDENT

Counsel for the Appellant : Sri. Damodar Mundra

Counsel for the Respondent No. 1 : Sri Syed Yasar Mamoon Additional Public Prosecutor

The Court delivered the following:

THE HONOURABLE SRI JUSTICE E.V.VENUGOPAL

CRIMINAL APPEAL No.821 OF 2018

J U D G M E N T:

This Criminal Appeal is filed by appellant-complainant under Sections 378(4) of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') aggrieved by the Judgment of Acquittal dated 09.12.2015 in C.C.No.229 of 2015 (old C.C.No.169 of 2015) passed by the learned VI Special Magistrate at Hyderabad (hereinafter referred as 'the learned trial Court') for the offence under Section 138 of the Negotiable Instruments Act (for short 'the Act').

02. Heard Sri Damodar Mundra, learned counsel for appellant and Sri Syed Yasar Mamoon, learned Additional Public Prosecutor for the State-respondent. Perused the available record.

03. The brief facts of the case are that respondent No.1-accused purchased material from the complainant on credit basis and became due of Rs.7,79,398/- under various invoices. In discharge of the above amount, accused issued two cheques bearing Nos.012228 and 001598 both dated 24.06.2014 for Rs.5,83,398/- and Rs.1,96,000/- respectively. On presentation

of said cheques, the same were dishonoured for the reason 'funds insufficient'. Thereafter, complainant issued a legal notice dated 25.07.2014. But accused neither replied nor repaid the amount within the stipulated time. Therefore, accused had committed the offence under Section 138 of the Act.

04. The learned trial Court vide Judgment dated 09.12.2015 found accused not guilty for the offence under Section 138 of the Act and acquitted him. Aggrieved thereby, complainant preferred the present Criminal Appeal.

05. Learned counsel for appellant contended that the learned trial Court failed to appreciate the evidence available on record in proper perspective and passed impugned Judgment. Therefore, she seeks to set aside the impugned Judgment.

06. Learned Assistant Public Prosecutor submitted that the learned trial Court rightly passed the impugned Judgment and the interference of this Court is unwarranted. Therefore, seeks to dismiss this Criminal Appeal.

07. Before the learned trial Court, on behalf of complainant, he himself was examined as PW1 and Exs.P1 to P17

were marked. On behalf of accused, no oral or documentary evidence was adduced.

08. The learned trial Court upon careful consideration of the material available on record found that the complainant primarily failed to prove that the material under Exs.P1 to P7 invoices was supplied to accused. The blank cheques were obtained by complainant with a promise to supply the material but no such material was supplied to accused. The statutory notice sent by complainant was not served on accused. Accused never issued any cheque in favour of complainant for discharge of legally enforceable debt. Moreover, complainant failed to place any evidence to show that material was supplied to accused and that statutory notice was served on accused and that even Postman was not examined to prove the service of statutory notice on accused. There is no receipt or acknowledgment showing the supply of material to accused. Ex.P17 is the self-serving document filed by complainant is of no use to prove the guilt of accused under Section 138 of the Act. Based on the oral and documentary evidence on record, the learned trial Court held that cheques were not issued towards discharge of legally

enforceable debt or liability and therefore, by way of its Judgment acquitted accused for the offence under Section 138 of the Act.

09. In view of the above discussion, this Court is of the considered view that the learned trial Court after considering all the aspects has rightly passed impugned Judgment and there is no infirmity, or irregularity, or illegality in the impugned Judgment passed by the learned trial Court. Hence, the Criminal Appeal is devoid of merits and it is liable to be dismissed.

10. Accordingly, this Criminal Appeal is dismissed confirming the Judgment of Acquittal dated 09.12.2015 in C.C.No.229 of 2015 (old C.C.No.169 of 2015) passed by the learned VI Special Magistrate at Hyderabad.

As a sequel, miscellaneous applications, pending if any, shall stand closed.

Sd/- I. NAGA LAKSHMI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The VI Special Magistrate at Hyderabad. (With records)
2. Two CCs to Public Prosecutor, High Court for the State of Telangana at Hyderabad. (OUT)
3. One CC to Sri. Damodar Mundra, Advocate [OPUC]
4. Two CD Copies

DL

CHR

HIGH COURT

DATED:12/07/2024



JUDGMENT

CRLA.No.821 of 2018

DISMISSING THE CRIMINAL APPEAL

⑦CHR
6/9/24