IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2025

CORAM
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.A.No.206 of 2014

P.Ramachandran ...Appellant

Vs.

A.Rajendiran ...Respondent

This Criminal Appeal is filed under Section 378(4) of Criminal Procedure Code to set aside the order of acquittal dated 25.09.2013 passed in C.C.No.129 of 2008, on the file of the District Munsif cum Judicial Magistrate, Tittagudi.

For Appellant : M/s.P.P.Shanmugasundaram

For Respondent : Not ready in notice

JUDGMENT

This appeal is directed against the judgement of the learned District Munsif cum Judicial Magistrate, Tittagudi dated 25.09.2013 made in CC.No.129 of 2008. By the said judgment, the trial Court has acquitted the respondent for an offence punishable under Section 138 of the Negotiable Instruments Act 1881.

2. The case of the complainant is that in discharge of his liability

to repay the loan of a sum of Rs.1,60,000/-, the accused had issued a cheque dated 29.09.2008 for the above amount and upon the cheque being submitted for collection, the same returned dishonoured. Thereafter demand notice was issued. Since the amount was not repaid, the complaint was filed.

3. A sworn statement was recorded and the summons were issued to the respondent accused. Upon appearance and furnishing of copies, the accused denied the allegations and stood trial. In order to bring home the charge, the complainant examined himself as P.W1 and both the officials of the accused bank and complainant bank were examined as P.W.2 and P.W.3. Exhibits P.1 to P.5 were marked. Upon being questioned about the incriminating evidence and circumstances on record, the accused denied the same as false. Thereafter no evidence was let in on behalf of the defence.

4. The trial Court considered the case of the parties. The trial court considered that in the legal notice as well as the complaint, the date of borrowal was not mentioned. In the cross examination, the complainant admitted that the sum of Rs.1,60,000/- was borrowed on 29.09.2008. On

the same day, the cheque was issued for the said sum of Rs.1,60,000/-. On the same day, the cheque was presented for collection towards the bank. In the said background, the trial court disbelieved the version of the complainant and believed the version of the accused that the cheque he had given for payment of insurance premium was misused by the complainant.

5. From the above facts itself it can be clear that, it is highly improbable that on the same day of the borrowal of the loan, the complainant can believe that the accused has money in his bank can get a cheque from him and present the same for collection on the same day. Therefore the finding that is arrived by the trial Court cannot be said to be an impossible view or a perverse view. Therefore this appeal against acquittal must fail and accordingly dismissed.

11.08.2025

RAP

NCC : Yes / No

D.BHARATHA CHAKRAVARTHY.J.,

RAP

To

The District Munsif cum Judicial Magistrate,
Tittagudi

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