



Crl.A.No.480 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATE : 23.09.2025

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.480 of 2010

Prem Kumar

... Appellant/Complainant

Versus

1.M/s.S.K.Leathers Company
No.207, Sidco Industrial Estate,
Sipcot, Ranipet,
Walajapet Taluk.

2.Sivakumar
S/o.Krishnamoorthy
Sole Proprietor to S.K.Leathers
84/1, Sathur Road,
Villappakkam Village & Post
Arcot Taluk, Vellore District.

... Respondents/Accused

PRAYER : Criminal Appeal filed under Section 378 of Cr.P.C., against the order dated 07.01.2010 made in C.C.No.73 of 2008 on the file of the Judicial Magistrate Court No.II, Walajapet.



Crl.A.No.480 of 2010

WEB COPY

For Appellant : Mr.T.Dhanyakumar

For Respondent : No Appearance

JUDGMENT

This Criminal Appeal has been filed by the appellant/complainant against the judgment dated 07.01.2010 in C.C.No.73 of 2008 on the file of Judicial Magistrate No.II, Walajapet, whereby the complaint filed for the offence under Section 138 of the Negotiable Instruments Act was dismissed for default and the respondents/accused were acquitted under Section 256(1) of Cr.P.C.

2. The learned counsel appearing for the appellant submitted that the appellant and the respondents were known to each other. During the course of business transactions, the respondents issued two cheques towards the supply of machineries made by the appellant, one cheque for a sum of Rs.6,00,000/- bearing cheque No.000180 drawn on Centurian Bank,



Crl.A.No.480 of 2010

Melvisharam and another cheque for a sum of Rs.5,00,000/- bearing cheque

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No.0063774 drawn on State Bank of India, Kalavai branch. When the said cheques were presented for collection, both were returned dishonoured for the reason “insufficient funds”. Thereafter, the appellant issued a statutory notice dated 28.11.2007 to the respondents and the same was not received by them and thereafter following the statutory proceedings, the complaint has been filed. He further submitted that even after filing the complaint summons could not be served to the respondents from 26.03.2008 till the case was dismissed on 07.01.2010. He further submitted that the complainant was also not appeared for several hearings and finally the Trial Court recorded the absence of the complainant and the complaint is dismissed for default under Section 256(1) of Cr.P.C.

3. There is no representation for the respondents despite due service of notice. Even during the pendency of this appeal, the notices issued to the respondents were returned 'unserved'. Before the Trial Court, the case was



Crl.A.No.480 of 2010

pending for service of summon to the accused. Hence no prejudice will be

WEB COPY

caused to the accused. Hence, the case is taken up for consideration.

4. On perusal of the docket proceedings and impugned order, it is seen that the complainant had remained absent from 17.05.2008 on as many as 12 occasions till 10.11.2009. On 11.12.2009, final notice was issued directing the complainant to appear on 07.01.2010. Even then, the complainant failed to appear before the Trial Court. The Trial Court, recording such absence, dismissed the complaint for default under Section 256(1) of Cr.P.C and acquitted the accused. Hence, the complaint had been dismissed for default. It is also seen that during the pendency of this appeal, notices sent to the appellant as well as the respondents were returned unserved, and the appellant is not traceable at his address and the same was confirmed by the appellant counsel, further respondents' present whereabouts are not known. This confirms that the appellant is not diligent or interested in prosecuting the case.



Crl.A.No.480 of 2010

WEB COPY

5. In view of the above, this Court is of the view that there is no ground to interfere with the order passed by the Trial Court. Accordingly, the Criminal Appeal stands dismissed confirming the dismissal of the complaint in C.C.No.73 of 2008 by the Judicial Magistrate No.II, Walajapet.

23.09.2025

Index : Yes / No

Internet : Yes/No

Neutral citation : Yes/No

Speaking / Non-speaking order
drl

To

1.The Judicial Magistrate Court No.II,
Walajapet.



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Crl.A.No.480 of 2010

M.NIRMAL KUMAR, J.

drl

Crl.A.No.480 of 2010

23.09.2025