



CrI.A.No.354 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2025

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CORAM
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CrI.A.No.354 of 2014

S.Sakthivel

...Appellant

Vs.

R.Illangovan

...Respondent

This Criminal Appeal is filed under Section 378 of Criminal Procedure Code to set aside the judgement dated 26th day of June 2012 made in C.C.No.1022 of 2009 on the file of Judicial Magistrate Court 2, Coimbatore.

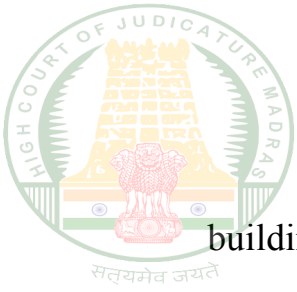
For Appellant : Mr.M.Ravi (No Appearance)

For Respondent : Mr.C.Samivel Legal Aid Counsel

JUDGMENT

This Criminal Appeal challenges the judgement of the learned Judicial Magistrate No.II, Coimbatore dated 26.06.2012 made in CC.No.1022 of 2009. By the said judgment, the accused is acquitted of an offence under Section 138 of the Negotiable Instruments Act, 1881.

2. The case of the complainant is that towards the expenses of



Crl.A.No.354 of 2014

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building a house in November 2018, the accused had borrowed sum of Rs.80,000/- and issued the set cheque on 10.11.2008 and the cheque was presented for collection on 12.11.2008 and the same returned dishonoured. Thereafter, the accused requested the complainant to again represent the cheque and accordingly on 06.02.2009, once again the complainant represented the cheque and again the cheque returned dishonoured and after due legal notice dated 10.02.2009 and since the amount remained unpaid, the complaint was filed.

3. The sworn statement was recorded and the complaint was taken on file. Summons were issued to the accused and copies furnished. Upon questioning, the accused denied the allegations and stood trial. The complainant had examined himself as P.W.1 and Exhibits P1 to P5 were marked. Upon questioning about the incriminating evidence on record, the accused denied the same as false. Thereafter, one Mani @ Roshan was examined as D.W.1.

4. The trial Court considered the case of the parties. It is the case of the accused that he had issued a cheque as security while borrowing a sum of Rs.5,000/- from the complainant who is in the business of



Crl.A.No.354 of 2014

lending. The common friend who introduced the accused to the complainant and was examined as DW.1. It is the case of the accused that the complainant is misusing the cheque which is given as security at the time of borrowal of the said sum of Rs.5,000/-. The said sum was also repaid.

5. The trial Court considered the case of the parties and found that the specific case of the complainant is that the amount itself is borrowed in the month of November 2008 and in repayment thereof, the accused said to have issued a cheque on 10.11.2008 and it was immediately presented for collection on 12.11.2008. Therefore, the trial Court believed the version of the accused that it is impossible that the complainant had believed that the accused had money in the account and still lent the amount as claimed by the complainant and gave the benefit of the doubt to the accused and acquitted him.

6. The learned legal aid counsel appearing on behalf the respondent accused would reiterate the said submissions in detail.

7. Upon considering the grounds of appeal and the submissions



Crl.A.No.354 of 2014

made by the learned counsel for the respondent, the view that is taken by the trial Court, after due appreciation of evidence, cannot be held to be a perverse view or an impossible view. The version of the complainant is improbable on the face of it. Accordingly, the appeal against acquittal fails and is dismissed.

11.08.2025

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NCC : Yes / No

To

The Judicial Magistrate Court 2, Coimbatore



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Crl.A.No.354 of 2014

D.BHARATHA CHAKRAVARTHY.J.,

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Crl.A.No.354 of 2014

11.08.2025