



Crl.A.No.46 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2025

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THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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M/s.Sree Gokulam Chits &
Finance Co., (P) Limited
Rep. By Mr.Harikrishnan
Sree Gokulam Towers,
No.307, 7th Street, 100 Feet Road,
Gandhipuram, Coimbatore – 641 012.

...Appellant

Vs.

M.Francis
Raju Auto Consultant,
No.1005, Sathy Road, Opp. IOB,
Ganapathy, Coimbatore – 641 006.

...Respondent

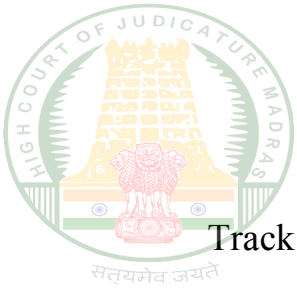
This Criminal Appeal is filed under Section 378 of Criminal Procedure Code against the Judgment in C.C.No.321 of 2011 dated 03.09.2013, passed by the learned Judicial Magistrate, Fast Track Court-I, (Magisterial Level) Coimbatore.

For Appellant : Mr.R.Tamizh Arasan
for Mr.L.Rajasekar

For Respondents : No appearance (Notice served)

JUDGMENT

This Criminal Appeal challenges the judgement dated 03.09.2013 made in CC.No.321 of 2011 by the learned Judicial Magistrate, Fast



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Track Court-I, (Magisterial Level) Coimbatore. By the said judgement the respondent accused was acquitted of an offence under Section 138 of the Negotiable Instruments Act, 1881.

2. The case of the complaint is that after joining a chit scheme and when the chit amount was disbursed in the year 2007, the accused failed to repay the same in time and accordingly towards the balance due, cheque dated 25.02.2011 was issued by the accused for Rs.39,000/-. Upon presenting the cheque for collection, the same returned dishonoured with an endorsement 'insufficient funds'. After issuance of due legal notice, since no amount was paid, the complaint was filed.

3. The sworn statement was recorded and the accused was summoned. Copies were issued and upon questioning, the accused denied the charges. In order to bring home the charge, one Harikrishnan was examined as P.W.1 on behalf of the complainant and Exhibits P.1 to P.10 were also marked. Upon being questioned about the incriminating evidence and circumstances on record, the accused denied them as false. Thereafter no evidence was let in on behalf of the defence.



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WEB COPY 4. The trial Court thereafter considered the submissions made on either side and acquitted the accused only on the ground that the chit amount was disbursed in the year 2010 and the three years limitation period expired in the year 2010 and as on 2011, there was no legally enforceable debt that was existing and therefore, the cheque that is not issued for a legally enforceable debt was accepted by the trial Court and the accused was acquitted.

5. The learned counsel appearing on behalf the appellant by pointing out straight to Ex. P.10 Ledger extract more specifically to the Entry No.26 that is contained in the same would submit that the accused was repaying in an irregular manner. The last payment was made by him on 02.02.2009 for sum of Rs.10,000/-. Therefore, the debt was not time barred as of the year 2011 and the trial Court grievously erred in acquitting the accused.

6. I have considered the set submissions made by the learned counsel for the appellant and perused the material records of the case.



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WEB COPY 7. It is true that if the accused has made a part payment in the year 2009, it cannot be said that the debt had become time barred as of the year 2011. Though Ex.P.10 was produced, when PW.1 was in the box, a specific question was raised to the complainant on the cross examination, firstly, he accepts that when the debt was due on 13.06.2007, the three years limitation period came to an end on 12.06.2010 and in the end of the cross examination, when he was repeatedly questioned about the debt being time barred, though he denied the suggestion, he did not whisper anything about the last payment that is made in the year 2009.

8. Though the documentary evidence is produced, from the entry, this Court is unable to make out anything about the banking transaction as the amount is paid as cash. In a criminal case where the accused is going to be punished, at least P.W.1 should have spoken about the same or any other receipt for payment of Rs.10,000/- in the year 2009 to corroborate Ex.P.10 should have been produced. In the absence of any whisper about the entry in Ex.P.10, merely on the argument made before this Court, I am unable to upturn the finding of the trial Court as perverse



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in nature or a view that is impossible. Considering all the above, the
appeal fails and is accordingly dismissed.

11.08.2025

RAP

NCC : Yes / No

To

Judicial Magistrate, Fast Track Court-I,
(Magisterial Level) Coimbatore



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D.BHARATHA CHAKRAVARTHY.J.,

RAP

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