



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2025

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CORAM :

THE HON'BLE MR. JUSTICE D. BHARATHA CHAKRAVARTHY

Crl.A.No. 376 of 2022

G. Anantharaj

... Appellant/ Complainant

Vs.

Lakshmi

... Respondent/ Accused

Prayer: This Criminal Appeal is filed under Section 378 of Cr.P.C to set aside the judgment dated 17.12.2021 made in C.C.No.5594 of 2016 on the file of the XIX Metropolitan Magistrate Court, Allikulam, Chennai - 600 003.

For Appellant : No Appearance

For Respondent : M/s. S. Jaimithra,
Enrolment MS. No.4194/ 2022
(Legal Aid Counsel)



JUDGMENT

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This appeal is filed against the judgment dated 17.12.2021 made in C.C.No.5594 of 2016 on the file of the XIX Metropolitan Magistrate Court, Chennai, Allikulam, Chennai. By the said judgment, the respondent/ accused was acquitted for an offence under Section 138 of the Negotiable Instruments Act.

2. The case of the complainant is that, in discharge of liability to repay the loan, the accused had issued a cheque bearing No.117672, dated 01.06.2011 for a sum of Rs.7,00,000/-. Upon being presented, the same returned dishonoured and a legal notice was issued on 30.06.2011 and the said notice also returned with an endorsement that the accused is absent in the address. Since, no payment was made within 15 days, the complaint was filed. After filing of the complaint, the sworn statement was recorded on 08.08.2011. In the sworn statement, the complainant has stated that on 13.05.2010, the accused has obtained a total sum of Rs.7,00,000/- as hand loan for her real estate business and in discharge of the said liability, the cheque was issued, which was dishonoured and hence the complaint.

3. Upon recording the sworn statement, summons was issued to the



respondent/ accused, after appearance and furnishing of copies, the accused denied the allegation and stood trial. In order to bring home the charge, the complainant examined himself as P.W.1 and Exs.P.1 to P.6 were marked. Upon being questioned about the incriminating evidence on record, the accused denied the same and thereafter, no defence evidence was let in on behalf of the accused.

4. The Trial Court after considering the case of the parties had found that the complainant has come up with different versions in the complaint, sworn statement and in his proof affidavit and even after specific queries that were made in the cross examination, the complainant had remained evasive. Therefore, the Trial Court has held that the complainant did not even discharge his primary obligation of mentioning what is the liability and what for the cheque was issued and therefore, accepted the case of the accused and giving the benefit of the doubt, the accused was acquitted.

5. Aggrieved by the same, the complainant has preferred this appeal on the ground that, it is the accused and her husband namely Suresh asked for a sum of Rs.8,15,000/- in order to get a prime plot for the appellant and believing their sweet words, a sum of Rs.8,15,000/- was given to them. However, even after one year, they did not develop the real estate business, therefore a



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complaint was given to the police. In the enquiry of the said complaint, the accused promised that she will return the sum of Rs.1,15,000/- within a week and the remaining amount will be paid by way of a cheque. It is the said cheque, which was returned with an endorsement that funds are insufficient. Therefore, the Trial Court ought to have convicted the respondent/ accused.

6. Per contra, M/s. S. Jaimithra, the learned legal Aid Counsel appearing on behalf of the respondent/ accused would submit that the complainant has not come up with the said version in the complaint and has given different versions and mentioned different amounts in the sworn statement, in the chief evidence and in the additional proof affidavit filed by the complainant, therefore the Trial Court has rightly acquitted the accused. She also further submitted the even though Ex.P.6 was marked to prove that a sum of Rs.2,00,000/- was given through the bank account of the accused, but absolutely there is no evidence was let in by the appellant/ complainant in order to prove that the bank account number that is reflected in the statement of accounts belongs to the respondent/ accused.

7. Heard the submissions made by the learned Legal Aid counsel and perused the materials records of the case.



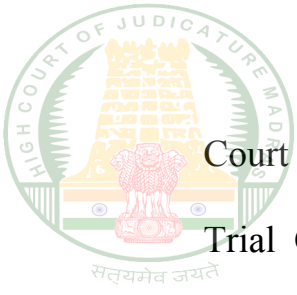
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8. It is true that the complainant is armed with a presumption under

Negotiable Instruments Act, 1881 once the signature in the cheque is accepted.

It is the simple case of the complainant that in discharge of his liability to repay the loan, the cheque was issued by the accused. In the sworn statement, a particular date in the year 2010 is mentioned as to the date of advancing the loan of Rs.7,00,000/- for real estate business and in the proof affidavit, a new version was brought forth by the complainant as if to invest and develop in some plots, a total loan of Rs.8,15,000/- was demanded and he gave an amount of Rs.3,15,000/- on 13.05.2010 and subsequently, gave an amount of Rs.5,00,000/- on 02.06.2010. In the additional proof affidavit that was filed, it was further mentioned that Rs.5,00,000/- amount was said to have been given on 13.05.2010, a sum of Rs.3,00,000/- by way of cash and a cheque for a sum of Rs.2,00,000/- and the dates were also now differed by saying that the cheque of Rs.2,00,000/- was given on 01.06.2016 and the cash of Rs.3,00,000/- was given on 02.06.2010. Thus, it can be seen that the complainant's case is inherently contradictory and the complainant did not even properly discharge the initial liability.

9. In view thereof, after due appreciation of the evidence, the Trial



Court has considered the same and acquitted the accused and the findings of the Trial Court cannot be considered to be an impossible finding or a perverse finding. Therefore in an appeal against the acquittal, the same cannot be upturned and there is no merit in this appeal.

10. Accordingly, this Criminal Appeal is dismissed. Consequently, connected miscellaneous petition, if any stands closed. There shall be no order as to costs.

05.08.2025

Neutral Citation Case : Yes/No
stn

Note: M/s. S. Jaimithra, learned Legal Aid counsel, who was present in the Court seems to have been appointed as the Legal Aid counsel to assist the respondent/ accused by my predecessor. In view thereof, appropriate steps can be taken to claim the fee in respect of the counsel and to pay her.

To:

1. The XIX Metropolitan Magistrate.



Crl.A. No.37



Allikulam, Chennai - 600 003

2. The Section Officer,
V.R. Section, High Court of Madras.

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D. BHARATHA CHAKRAVARTHY, J.

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