



Crl.A.No.135 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2025

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.135 of 2011

and

Crl.M.P.No.11247 of 2024

M/s.Quick Suppliers,
Rep. by its Manager,
G.N.Hariharan,
153/4, Thevar Complex
Avinashi Road,
Coimbatore – 18.

... Appellant/Complainant

Versus

1.M/s.Sri Murugan Textiles Processing Mill,
97C, Vaiyapuri Nagar 2nd Cross,
Karur – 639 002.

2.R.Vadivelu,
Managing Partner,
M/s.Sri Murugan Textiles Processing Mill,
97C, Vaiyapuri Nagar 2nd Cross,
Karur – 639 002.

... Respondents/Accused 1 & 2

PRAYER : Criminal Appeal filed under Section 378 of Cr.P.C. praying to set aside the judgment of acquittal of the respondents passed by the learned



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Judicial Magistrate No.III, Coimbatore in C.C.No.793 of 2006 on 05.01.2011 and convict the respondents for the offence under Section 138 of the Negotiable Instruments Act.

For Appellant : Mr.K.Selvakumar

For Respondents : Mr.Vimal Bobby Crimsan
for Mr.N.K.Ponraj

J U D G M E N T

The appellant as complainant had filed a private complaint against the respondents under Section 138 of the Negotiable Instruments Act in C.C.No.793 of 2006. The trial Court, by the judgment dated 05.01.2011, dismissed the complaint, acquitting the respondents/accused, against which, the present appeal is filed.

2.The learned counsel for the appellant submitted that the appellant is a dealer of cutting tools, welding instruments and pipe fitting. The first respondent is one of the customers and the second respondent is its Managing Director. The respondents purchased materials from the appellant during the period from 25.02.2004 to 14.11.2005 to the tune of Rs.4,68,201.67. When



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the payments were insisted by the appellant, the respondents issued two cheques drawn on UTI Bank, Karur Branch bearing cheque No.081694 dated 15.05.2006 for Rs.1,00,000/- and cheque No.119691 dated 20.04.2006 for Rs.1,00,000/-. When the cheques were presented, the same got dishonoured. Thereafter following the statutory procedure complaint filed. To prove the case, the Power of Attorney/Manager of the appellant company examined and through him Exs.P1 to P9 marked. Exs.P1 and P2 are cheques, Exs.P3 and P4 are bank return memos, Ex.P5 is the statutory notice, Ex.P6 and P7 are the postal acknowledgements, Ex.P8 is the Power of Attorney document and Ex.P9 is the statement of account of the business.

3.In this case the appellant examined himself as PW1, filed his proof affidavit on 06.05.2008, thereafter cross examined on 12.06.2008. At the time of cross examination, the payment details, which the respondents claimed to have paid to the appellant on 23.09.2004 a sum of Rs.50,000/-, on 20.01.2005 a sum of Rs.50,000/-, on 13.03.2004 a sum of Rs.75,000/- and on 23.03.2004



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a sum of Rs.50,000/- were denied. Later, he admitted that the bill books for the period from 25.02.2004 to 14.11.2005 would confirm the payment made by the respondents if any and whatever payments made by the respondents is through their Manager, Venugopal. The respondents received notice but not refuted the same. Thereafter PW1 recalled for cross examination on 14.07.2010. At that time, PW1 admitted receipt of certain payments, which were prior to issuance of cheques, which was projected as though the appellant company received the payment. Further DW1 is the Manager of UTI Bank, Karur Branch, through him Exs.D1 to D5 marked. DW2, the other bank Manager denies knowledge of any such transaction. The respondents not denied the signature and issuance of cheque. When that is so, the trial Court ought to have seen that statutory presumption is starrng against the respondents and the respondents not probabilised their defence. On the other hand, merely because PW1, who recalled two years later, admits about certain documents, giving benefit of doubt to the respondents, acquitting them is not proper.



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4.The learned counsel for the respondents strongly opposed the appellant's contention submitting that in this case PW1/Manager initially cross examined on 12.06.2008. On which date, a question with regard to specific payment details put to him. The appellant in his questioning under Section 313 of Cr.P.C. denied and gave explanation. The respondents made payments for machine supply. Further it is a commercial transaction. In this case no bills or invoices produced to show machines supplied. There was some transaction between the appellant and the respondents and the respondents paid for the same. To prove their payment, the respondents examined DW1, the Bank Manager of UTI Bank, Karur Branch and through him Exs.D1 to D5 marked. Exs.D1 to D5 not seriously disputed except for a general question that for what reason Exs.D1 to D5 paid to the appellant, the reason not known but the appellant not denied the payment made through Exs.D1 to D5. Thereafter PW1 was recalled on 14.07.2010 and when it was confronted with Exs.D1 to D5, he admits the payments. Thus the respondent



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not only probalised, proved the payment of around Rs.4,68,205/- and the entire amount has been paid. The trial Court in its judgment discussed in detail the evidence of PW1, DW1, Exs.D1 to D5 and found that the respondents probalised their defence and proved that they discharged the liability covering Exs.P1 and P2 cheques.

5.Considering the submissions made on either side and on perusal of the materials, this Court finds the trial Court judgment is a detailed one. PW1 in his cross examination on the second occasion after marking Exs.D1 to D5 and examination of DW1 admits and confirms that the payment have been received by the appellant company. Thus the respondents probalised their defence, which was rightly recorded and the trial Court dismissed the complaint. This Court finds no reason to interfere with the judgment of the trial Court.



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6.In the result, the Criminal Appeal is dismissed and the

discharge of the respondents/accused is hereby confirmed. Consequently, the connected Criminal Miscellaneous Petition is closed.

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Index : Yes / No

Neutral citation : Yes / No

Internet : Yes/No

Speaking / Non-speaking order
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To

1.The Judicial Magistrate No.III,
Coimbatore.

2.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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