



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2025

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THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL A No. 433 of 2011

1. SAMPATH
S/o.Ponnusamy
Anna Nagar,
Udumalpet,
Coimbatore.

Appellant(s)

Vs

1. K.Parthasarathy Spinning Mills (P)
Ltd.,Rep. By is Managing Director,
R.Gopalakrishnan.
2.R.Goapalakrishnan,
Managing Director.

Respondent(s)

CRL A No. 433 of 2011

PRAYER

This criminal appeal is filed under Section 378 of Criminal procedure code against the judgment made in CC.No.74/2004 dated 22.07.2005 on the file of the Judicial Magistrate No.I, Udumalpet, Coimbatore District .



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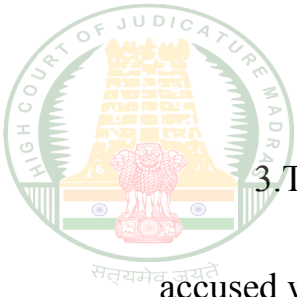
For Appellant(s): M/s.P.Santhiya for
P.S.Kothandaraman

For Respondent(s): Not ready in notice.

JUDGEMENT

This criminal appeal is directed against the judgement of the learned Judicial Magistrate No-I, Udumalpet, dated 22/7/2005, made in C.C.No. 74 of 2004. By the said judgement, the respondent/accused was acquitted of an offence under Section 138 of the Negotiable Instruments Act, 1881 as against which the complainant has filed this present appeal.

2.The case of the complainant is that the complainant is in the business of supplying goods such as thread, etc., from his spinning mills. The accused had transactions with the complainant, and towards the value of the goods that were supplied, a sum of Rs.4,88,000/- was due, and in discharge of liability, the cheque was issued by the complainant, which was presented for collection, and it returned dishonoured, and hence, after issue of legal notice, the complaint was filed.



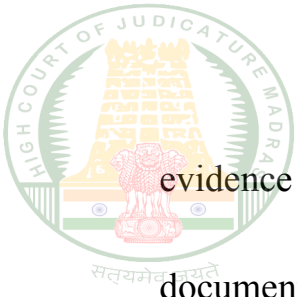
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3. The sworn statement of the complaint was recorded, and thereafter the accused was summoned. Upon appearance and furnishing of copies, the accused denied the allegations and stood trial.

4. In order to bring home the charge, the complainant examined himself as PW.1, and the officials from both the banks as PW.2 and PW.3. Ex.P1 to P10 were also marked.

5. Upon being questioned about the incriminating evidence on record under Section 313 of the Code of Criminal Procedure, the accused denied the same as false. Thereafter no further evidence was let in on behalf of the defence.

6. The trial Court thereafter considered the case of both the parties. The trial Court specifically considered the admission of the complainant in the cross-examination that there were documents evidencing the supply of goods and that he had even entrusted those invoices/memos to his advocate. The trial court thereafter found that when it is the allegation of the accused that at the inception of the transaction, a cheque was issued as a security, and when both sides accept the running transaction, the complainant, having documentary



evidence with reference to the supply of the goods, had failed to produce those documents and therefore held that the case of the accused that without even any

liability, the cheque which was given as a security could have been filled up and utilised by the complainant is a probable case and gave the benefit of the doubt to the accused and acquitted the accused.

7.The learned counsel for the complainant would submit that this is a case where the cheque is alleged to have been issued for goods supplied. The complainant is armed with the presumption. Nothing was done by the accused to rebut the presumption, and therefore, the finding of the trial court is perverse in nature, and as such, it has to be upturned by this court.

8.I have considered the said submissions made by the learned counsel for the appellant. There can be no doubt, that in the ordinary course, it is enough for the complainant to mark the cheque alone, and it is for the accused to have rebutted the presumption. The accused has also duly cross-examined the complainant, and during the course of the cross-examination, it is the specific case of the complainant that the supply of goods is all supported by invoices/memos, and for the purpose of filing the instant case, he has handed



over to the counsel.

WEB COPY 9. Even after such an answer, when no further steps have been taken on behalf of the complainant side, the view that is taken by the trial court cannot be held to be an impossible view or a perverse view, and as such, in an appeal against acquittal, even if two views are possible, unless the view that is taken into an impossible view or a perverse view, the finding of the acquittal cannot be turned into one of guilt, and accordingly, finding no merits, the appeal stands dismissed.

06-08-2025

jrs

Neutral Citation: Yes/No

To

The Judicial Magistrate No.I,
Udumalpet, Coimbatore District.



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**D.BHARATHA
CHAKRAVARTHY J.**

jrs

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