



Crl.A.No.100 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2025

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CORAM:

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.A.No.100 of 2015

V.P.Rajendran

...Appellant

Vs.

T.Sreedhar

...Respondent

Appeal filed under Section 378(4) of Cr.P.C. to call for the records pertaining to the judgment dated 24.12.2014 passed by the learned Judicial Magistrate, Fast Track Court, Hosur made in STC.No.329 of 2013 acquitting the respondent under Section 138 of Negotiable Instrument Act and set aside the same.

For Appellant : Mr.A.Balamurugan

For Respondent : Mr.E.Kannadasan

JUDGMENT

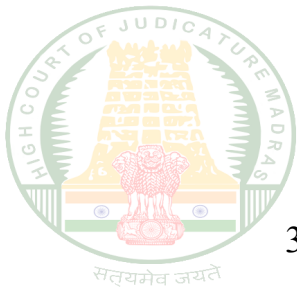
This Appeal is filed against the judgment of the Judicial Magistrate, Fast Track Court, Hosur dated 24.12.2014 passed in STC.No.329 of 2013. By the said judgment, the respondent was acquitted of the charge of



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having committed an offence under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'NI Act'). The parties are referred to as the Complainant and the Accused as per their array in the Trial Court.

2. It is the case of the complainant that, the complainant and the accused are known to each other for the past ten years, as they were working in TVS company and based on such acquaintance, the accused borrowed a sum of Rs.3,00,000/- from the complainant. The accused issued a Cheque dated 20.09.2013 for a sum of Rs. 3,00,000/- towards repayment of the said loan amount. When the same was presented by the Complainant for collection on 20.09.2013, the same was returned dishonoured on 23.09.2013 along with the memo of dishonour of the bankers of the accused dated 23.09.2013 with an endorsement 'Funds insufficient'. Thereby, the complainant issued a demand/legal notice dated 30.09.2013. Upon receipt of the said legal notice, thought the accused sent a reply on 25.10.2023, however, the cheque amount was not paid within the statutory period. Hence, the complaint was filed.



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3. A Sworn statement was recorded and upon issuing of summons, furnishing of copies and questioning, the accused denied the charge and stood trial.

4. In order to prove the charges, the complainant examined himself as PW-1 and marked Exhibits P1 to P7. When questioned under Section 313 of Cr.P.C about the incriminating evidence and circumstances on record, the accused denied them as false. The accused examined himself as D.W.3 and two other witnesses were examined as D.W.1 & D.W.2 and Exhibits D.1 & D.2 were marked.

5. The Trial Court heard the parties. For the reasons that the complainant did not prove liability of the accused by producing the bank statements though it is claimed that the amount was withdrawn from the Bank account and that the complainant did not examine his wife, who has alleged to have witnessed the payment of loan, the Trial Court acquitted the accused. Aggrieved by the same, the present appeal has been filed.

6. Learned counsel for the appellant would submit that, the trial Court ought to have seen that the complainant is armed with a

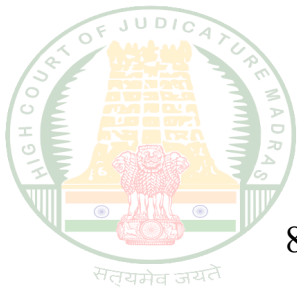


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presumption. Even though the accused has stated that the cheque was issued as a security with a third person, the same is not proved by the accused to the level of preponderance of probability. When the signature of the accused in the cheque is admitted, there need not be any further proof on behalf of the complainant. However, the trial Court dismissed the complaint only on the ground that the wife of the appellant was not examined and the bank statement is not produced. However, the same was not necessary since the complainant has duly marked the cheque and there is a presumption that the cheque is issued only in respect of a legally enforceable debt.

7. Per contra, the learned counsel appearing on behalf of the respondent-accused would submit that, when it is the specific case of the accused that the cheque which is issued as security in respect of a transaction with a third party is misused and when it is the specific assertion of the complainant that he withdraw the money from the bank in the presence of his wife and handed over to the accused, neither the statement was produced before the trial Court nor the wife of the appellant was examined. Therefore, the trial court has rightly granted the benefit of doubt to the accused, which cannot be said to be erroneous.



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8. I have considered the rival submissions made on either side and perused the material records of the case.

9. When it is the case of the complainant that a sum of Rs.3,00,000/- has been advanced as a cash and that the cash has been withdrawn from the particular bank and has been handed over in the presence of his wife, even when the appeal is pending before this Court from the year 2015, nothing prevented the complainant to produce a copy of the statement of accounts. Therefore, in that context, considering the background of the parties and the amount involved and the specific case of the complainant and the defence that is taken by the accused, it cannot be said that the finding arrived by the trial Court is a perverse view or an impossible view.

10. In the light of the above, finding no merits, this Criminal appeal stands dismissed.

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Neutral Citation Case : Yes/No



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1. The Judicial Magistrate, Fast Track Court,
Hosur.
2. The Public Prosecutor,
Madras High Court.



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D.BHARATHA CHAKRAVARTHY, J.

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