



Crl.A.No.257 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 11.08.2025

CORAM:

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.A.No.257 of 2015

M.Ganesan

...Appellant

Vs.

N.Raveendran

...Respondent

Appeal filed under Section 378(4) of Cr.P.C. to set aside the judgment dated 26.03.2014 passed in STC.No.5 of 2013 on the file of the Hon'ble Judicial Magistrate (Fast Track) Omalur, Salem District, convict the respondent according to law.

For Appellant : Mr.S.Jayakumar

For Respondent : Notice not ready

JUDGMENT

This Appeal is filed challenging the judgment dated 26.03.2014 passed in STC.No.5 of 2013 by the learned Judicial Magistrate (Fast Track) Omalur, Salem District. By the said judgment, the respondent-



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accused was acquitted of the offence under Section 138 of the Negotiable Instruments Act. The parties are referred to as the complainant and the accused in this judgment.

2. The case of the complainant is that the accused had borrowed a sum of Rs.5,00,000/- from the complainant on 15.04.2013 and on the same day, he issued a post dated cheque for a sum of Rs.5,00,000/- dated 19.06.2013 towards its repayment. When the same was presented by the complainant for encashment on 19.06.2013, the same was returned with two endorsements namely, 'Funds insufficient' and 'Drawer signature differs'. Therefore, the complainant issued a legal notice dated 13.07.2013 calling for the accused to pay the amount due under the said cheque within the statutory period. However, the accused, neither sent a reply nor repaid the amount. Hence, the complaint was filed.

3. A sworn statement was recorded and upon issuing of summons, furnishing of copies and questioning, the accused denied the allegations.

4. In order to prove the charges, the complainant examined himself as P.W.1 and the official from the concerned bank was examined as P.W.2

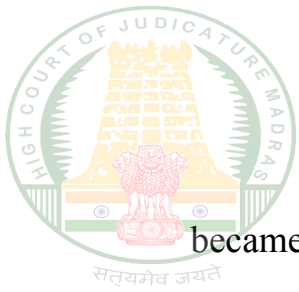


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and exhibits P.1 to P.6 were marked on behalf of the complainant. Upon being questioned under Section 313 of the Code of Criminal Procedure, the accused denied the incriminating evidence on record. Thereafter, the Bank official from Canara Bank, Pappampatti branch was examined as D.W.1 and exhibits D.1 to D.4 were marked on the side of the defence.

5. The trial Court considered the case of the parties. Firstly, considering the quantum of loan being a sum of Rs.5,00,000/-, it considered the background of the parties and the answers given by the complainant that he is living by his savings through chits which he had made four to seven years before the transaction and with the income of the family members and also by rearing goats and cultivating lands. Considering, the background of the complainant, the trial court held that, in this case, it is just and necessary that the complainant ought to have proved his capability of advancing such a huge loan.

6. Secondly, the trial Court considered the defence of the accused that he had given the said cheque as security with one Kandasamy. Considering the fact that even the cheque number subsequent to the instant cheque number have already been encashed and the account



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became dormant for a long time, the trial Court held that the defence of the accused is probable.

7. Considering the evidence of the Bank officials, it found that the cheque would have been issued long back. Further, the trial court, after examining the cheque found that, as contended by the accused, there is a material alteration with reference to the date of the cheque. For the above reasons, the trial Court acquitted the accused. Aggrieved by the same, the present appeal is filed.

8. Learned counsel for the appellant would submit that the complainant's case is protected by the presumption under the Act, once the accused accepts the signature in the cheque. Secondly, merely because subsequent cheques were encashed, there was no occasion for the trial Court to doubt the cheque. If the accused designs his transaction in such a way, the complainant cannot be put to prejudice for the same. Further, the trial Court also erred that there was material alteration in exhibit P.1.

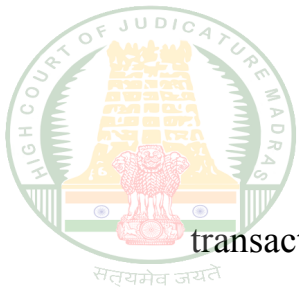
9. I have considered the said submissions made by the learned counsel for the complainant and perused the material records of the case.



WEB COPY 10. It is true that in each and every case the capability of the complainant need not be insisted to be proved. But considering the background of the parties to the cheque amount, as the cheque amount is on the higher side, especially, when it is pleaded by the complainant that he is a farmer and is also rearing goats and the amount is said to be Rs.5,00,000/-, the finding of the trial Court that the complainant should have let in some evidence towards his capability cannot be said to be erroneous in the context of the instant case.

11. Further, the trial Court considered exhibit P.1 and has come to the conclusion that the material alteration is visible for the naked eye. As a matter of fact, the cheque is dated 19.06.2013. Since the cheque book was issued before the year 2010, the letters 200 is printed in the cheque book and the last digit alone is left blank. The second zero is overwritten by the letter 1 which is darker and thereafter the letter 3 is written in the cheque. The same does not carry any initial of the complainant.

12. This circumstance coupled with the defence of the accused that it was a old cheque given to one Kandasamy in respect of an old



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transaction, makes the finding of the trial Court probable that there could have been a material alteration with reference to the date of cheque also.

13. In view thereof, the finding of the trial Court cannot be held to be perverse or an impossible finding and accordingly, finding no merits, this Criminal appeal stands dismissed.

11.08.2025

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Neutral Citation Case : Yes/No

To

1. The Judicial Magistrate (Fast Track),
Omalur, Salem District.

2. The Public Prosecutor,
Madras High Court.



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D.BHARATHA CHAKRAVARTHY, J.

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