



Crl.A.No.312 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated : 16.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.A.No.312 of 2015

A.L. Vairavan

... Petitioner

Versus

C.S. Premanand

... Respondent

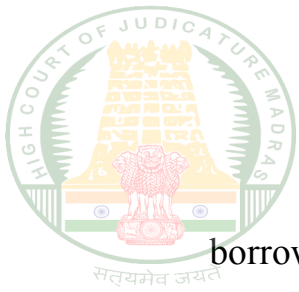
PRAYER : Criminal Appeal filed under Section 378(4) of Cr.P.C to set aside the order of acquittal dated 23.04.2012 in C.C.No.1052 of 2009 passed by the Judicial Magistrate – II, Coimbatore.

For Appellant	: Mr.Hariharan for M/s.PL.Narayanan
For Respondent	: Mr.Jai Hari Sudhan for Mr.N.R.Ramesh Kanna

ORDER

The appeal challenges the Judgment of acquittal passed by the Judicial Magistrate – II, Coimbatore in C.C.No. 1052 of 2009 .

2. It is the case of the appellant that the respondent had



Crl.A.No.312 of 2015

borrowed a sum of Rs.2,50,000/- on 08.04.2005 for purchasing a car; that the respondent defaulted in re-payment of the loan; that the respondent was due and liable to pay a sum of Rs.4,40,907/- as on 01.06.2007; that on the said date the respondent had issued a cheque of Rs.3,52,500/-; that since the appellant had told the respondent that the original RC book was misplaced; the respondent sought for return the said sum; that on 13.11.2007 the appellant had returned the said sum by way of cheque; that thereafter the appellant had lodged a police complaint against the respondent stating that he had defaulted in re-payment of the loan and thus cheated; that during the negotiation it was mutually agreed that the respondent would pay Rs.4,72,350/- and accordingly the respondent issued a cheque for Rs.4,72,350/- drawn on Nedungadi Bank; that when the said cheque was presented for collection it was returned with the endorsement "funds insufficient." and in spite of the statutory notice the respondent did not make any payment.

3. Before the Trial Court the appellant examined himself as P.W.1 and marked Exs.P.1 to P.6. The respondent neither examined any witness nor marked any document.



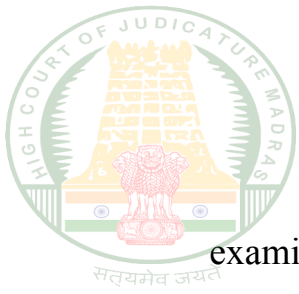
Crl.A.No.312 of 2015

4. Heard both sides and perused the materials available on record.

5. It is seen from the records that the case of the appellant is that he had lent a sum of Rs.2,50,000/- to the respondent for purchasing a car. Even as per the complaint the accused had returned a sum of Rs.3,52,000/- in cash on 06.11.2007. Since the RC book was found missing in the office of the appellant, the respondent insisted on the return of amount of Rs.3,52,000/- paid by him and accordingly the appellant returned a sum of Rs.3,52,000/-

6. It appears that the appellant had lodged a police complaint against the respondent. It is the version of the appellant that thereafter a settlement was arrived and the respondent agreed to pay a sum of Rs.4,72,350/-. The complaint is silent about the return of the RC book to the respondent. It is the case of the respondent that since the RC book was not returned, there was no settlement at all and the appellant had misused the cheque, which was given as a security earlier. The defence of the respondent is probable. It is not known as to how the respondent had agreed to pay the money when the RC book was not returned to him.

7. Be that as it may. It is seen that the appellant had not



Crl.A.No.312 of 2015

examined himself as witness and his power agent one Ramesh was examined as P.W.1. P.W.1 had admitted that he had no knowledge of the transaction between the appellant and the respondent. He had also stated that the accounts were maintained only by the appellant and only he would be in a position to reply to the questions put in the cross examination. Therefore, the Trial Court found that P.W.1 was not a competent witnesses to establish the case of the appellant. The Trial Court also found that the accused had established that the cheque from the bank from which it was drawn had merged with the Punjab National Bank and therefore the respondent could not have issued the cheque from the said Bank at the relevant point of time especially, when there was no money due to the appellant. This Court finds that the above said findings of the trial Court are based on evidence and there is no infirmity, whatsoever, warranting interference in the Judgment of the Trial Court. Accordingly this appeal stands dismissed.

16.07.2025

smn/ars

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



WEB COPY



Crl.A.No.312 of 2015

SUNDER MOHAN, J.

smn

To

The Judicial Magistrate – II, Coimbatore.

Crl.A.No.312 of 2015



WEB COPY



Crl.A.No.312 of 2015

16.07.2025