



Crl.A.No.238 of 2010

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2025

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.A.No.238 of 2010

S.Ramachandran

... Appellant

Vs.

K.Kannapiran

... Respondent

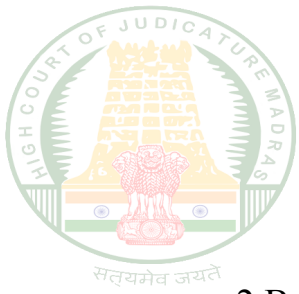
PRAYER : Criminal Appeal filed under Section 378 of Code of Criminal Procedure, pleaded to set aside the judgment and decree dated 25.01.2010 passed in C.C.No.5975 of 2007 on the file of the learned Metropolitan Magistrate No.XVIII, Saidapet, Chennai - 15 acquitting the respondent herein.

For Appellant : M/s.K.Govi Ganesan

For Respondents : Not ready in Notice

JUDGMENT

This appeal is directed against the judgment in C.C.No.5975 of 2007 dated 25.01.2010 made by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai - 15.



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2.By the said order the respondent/accused was acquitted for the offence under Section 138 of the Negotiable Instruments Act.

3.Heard Mr.K.Govi Ganesan, the learned counsel for the appellant.

4.The learned counsel for the appellant taking this Court through the complaint would submit that the accused had approached the complainant for a loan of Rs.1,50,000/- for his urgent expenses and on 17.08.2006, the same was advanced. In order to discharge the said liability the subject matter cheque was given on the same date. When the cheque was deposited on 18.08.2006, the same got dishonoured and hence the complaint. When no contra evidence was let in by the accused side, when the presumption was in favour of the complainant the trial Court erred in acquitting the accused.

5.I have considered the several submissions made by the learned counsel for the appellant and perused the judgment of the trial Court and the other material records of the case.



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6.It can be seen that the very case of the complainant is that the loan was advanced on 17.08.2006 and on the same day the accused had issued a cheque in repayment thereof and it was presented for collection on the next day. Therefore, the trial Court found that the entire transaction as such is unbelievable. As rightly pointed out by the trial Court, if the person at the capacity to repay the said amount of Rs.1,50,000/-, the complainant would have naturally asked as to why the accused is taking amount from him on the same day. Further, the other oral evidence in cross examination was also considered in detail to disbelieve the version of the complainant and finding of acquittal is entered into. Unless and until the said findings are perverse in nature, this Court in an appeal against acquittal cannot reappraise the evidence and turn a finding of acquittal into one of conviction. In view thereof, finding no merits, this Criminal Appeal is dismissed.

05.06.2025

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Neutral citation : Yes/No



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D.BHARATHA CHAKRAVARTHY, J.

ep

To

The Metropolitan Magistrate No.XVIII,
Saidapet, Chennai - 15.

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