



Crl.A.No.388 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

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M/s.Arjun Amaravathi Chits (P) Ltd.,
Rep. by its Authorized Executive Assistant,
Mr.V.S.Sukumar, S/o.VRA Sundaram,
Reg.Off.No.30, Kutchery Road, Mylapore,
Chennai – 600 004.

...Appellant/Complainant

-Vs-

Mr.K.Subramaniam,
Proprietor,
VKM Hard wares,
No.234-B/359, Naicken Thottam Lane,
Vaisal Vedhi Corner,
Coimbatore – 641 001.

...Respondent/Accused

Prayer: Criminal Appeal filed under Section 378 of Criminal Procedure Code, 1973, to set aside the judgment dated 21.05.2010 made in C.C.No.2610 of 2004 on the file of the Hon'ble VIII Metropolitan Magistrate, George Town, Madras, acquitting the respondent and be pleased to convict the respondent with maximum sentence and fine under Section 138 r/w Section 142 of the Negotiable Instruments Act, 1881.

For Appellant : Mr.M.J.Jaseem Mohamed

For Respondent : No appearance



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ORDER

The appeal is directed against the judgment dated 21.05.2010 made in C.C.No.2610 of 2004 by the learned VIII Metropolitan Magistrate, George Town, Madras. By the said judgment, the respondent/accused was acquitted of an offence under Section 138 of the Negotiable Instruments Act, 1881.

2. When the matter came up for hearing, Mr.M.J.Jaseem Mohamed, learned counsel for the appellant submitted that there were no instructions on behalf of the appellant. As such, this Court went into the record and proceeded to dispose of the matter.

3. Upon perusal of the records, it can be seen that the case of the complainant is that, in discharge of the liability towards the loan amount, the accused had issued a cheque for a sum of Rs.69,000/- and when the cheque was presented, the same was returned dishonoured and thereafter, issuing a demand notice, the complaint was filed. When a summon was issued to the accused, the accused appeared before the Trial Court and denied the allegations. Thereafter, to prove the case, the complainant examined himself as P.W.1, and Exs.P1 to P8 were marked. Whereupon questioning under



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Section 313 of the Code of Criminal Procedure, the respondent/accused denied the case and also the various evidence that were let in by the complainant, and thereafter, by way of defence evidence, the accused examined himself as D.W.1 and Exs.D1 to D4 receipts were marked.

4. The Trial Court thereafter considered the case of the parties and considered that there was a chit transaction between the complainant and the accused, and when the accused had taken the chit, thereafter he had repaid the amount, and receipts were marked by the accused. Under the said circumstances, believed the version of the accused that the subject matter cheque was left with the complainant as security and there existed no pre-existing debt in support of the same and accordingly, in the absence of any further proof on behalf of the complainant, held that the accused had rebutted the presumption and the complainant had failed to prove that there was any pre-existing debt for issuing the cheque. When the Trial Court has duly appraised the evidence on record and arrived at a finding in an appeal against acquittal, unless the same is perverse or wholly unsustainable, this Court in an appeal against acquittal cannot overturn the said finding.



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5. Accordingly, finding no merits, the appeal stands dismissed.

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Speaking Order

To

1.The VIII Metropolitan Magistrate,
George Town, Madras.

2.The Public Prosecutor,
Madras High Court.

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