



Crl.A.No.4 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 13.06.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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N.Ramesh

.. Appellant

Versus

G.Gunasekaran

.. Respondent

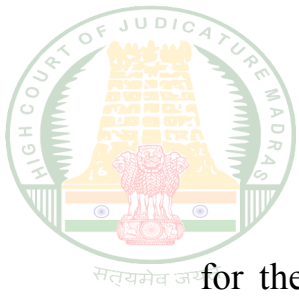
Prayer : Criminal Appeal filed under Section 378 of Cr.P.C., to set aside the order of acquittal passed by the learned Judicial Magistrate No.I, Vellore in C.C.No.169 of 2008, dated 20.06.2011, on the file of the learned Judicial Magistrate No.I, Vellore, Vellore district and convict and sentence the respondent/accused and order for the compensation to the complainant.

For Petitioner : Mr.V.Madhavan

For Respondent : Mr.P.Chandrasekar

ORDER

Today, when the matter is taken up for hearing, the learned Counsel



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for the appellant reported no instructions. Even the appellant is also not present before this Court in person.

2. This Criminal Appeal is filed as against the judgment, dated 20.06.2011 made by the learned Judicial Magistrate No.I, Vellore in C.C.No.169 of 2008. By the said judgment, the Trial Court acquitted the respondent/accused of the offence under Section 138 of the Negotiable Instruments Act, 1881.

3. Upon perusal of the material records of the case, it can be seen that the case of the appellant/complainant is that when the respondent/accused refused the earlier sale transaction, in which, he received the advance amount, but, did not execute the sale deed and a complaint was sought to be given, the respondent/accused accepted the receipt of the advance and in repayment thereof, issued the cheque, dated 05.02.2008 for a sum of Rs.5,00,000/-. Upon depositing the same for collection, the same was



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returned dishonoured and thereafter, after issue of legal notice, the complaint was filed.

4. Upon issue of summons, the respondent/accused appeared before the Trial Court and denied the allegations. In order to prove the case, on behalf of the appellant/complainant, *Raji* and *Vijayakumar* were examined as *P.W.1* and *P.W.2* and ***Exs.P-1*** to ***P-5*** were marked. Upon questioning under Section 313 of Cr.P.C., the respondent/accused denied the allegations as well as the various evidence that was let in on behalf of the appellant/complainant and thereafter, no evidence was let in on behalf of the defence. The Trial Court considered the evidence that was let in on behalf of the appellant/complainant. The Trial Court took into account the answers that were given by the prosecution witnesses in the cross-examination creating doubt as to in whose name the agreement of sale was entered into and to whom the cheque was entrusted by the respondent/accused and concluded that the petitioner/complainant did not even adduce proper evidence even to



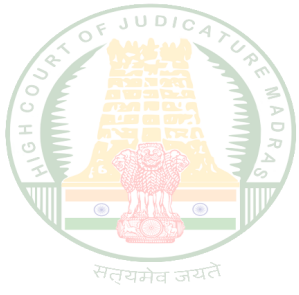
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prima facie discharge his onus as to what is the transaction for which the cheque is issued and therefore, giving benefit of doubt, acquitted the respondent/accused.

5. In an appeal against acquittal, unless the said finding is demonstrated to be perverse or wholly untenable, merely because two views can be taken, this Court cannot upturn the finding of acquittal into one of guilt. I am in agreement with the submissions made by *Mr.P.Chandrasekar*, learned Counsel for the respondent/accused that the Trial Court has duly appraised the evidence on record and come to the finding.

6. In view thereof, finding no merits, this Criminal Appeal stands dismissed.



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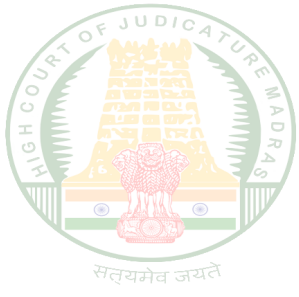
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Neutral Citation : no

grs

To

The Judicial Magistrate No.I,
Vellore.



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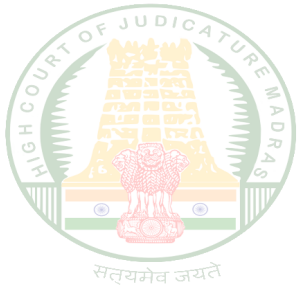


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D.BHARATHA CHAKRAVARTHY, J.

grs

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