



CrI.A.No.646 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2025

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.646 of 2016

M/s.Ganesh Chemicals

Rep by its Partner

C.N.Kumar,

32, Pethampalayam Road,

Perundurai, Erode District.

... Appellant/Complainant

Versus

K.S.Rajpurohit, M.

Proprietor,

Sri Mahalaxmi Process,

62-A, Mudalithottam,

Opp. Bharani Garden,

Sulai, Erode.

... Respondent/Accused

PRAYER : Criminal Appeal filed under Section 378 of Cr.P.C. praying to set aside the judgment dated 05.02.2016 passed in S.T.C.No.307 of 2011 on the file of the learned Judicial Magistrate Court No.I, Erode by allowing the present appeal and convict the respondent in accordance with law.

For Appellant : Mr.M.Karthick
for M/s.I.C.Vasudevan

For Respondent : Mr.V.Balamurugan



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JUDGMENT

The appellant as complainant filed a private complaint against the respondent for offence under Section 138 of the Negotiable Instruments Act in S.T.C.No.307 of 2011. The trial Court, by the judgment dated 05.02.2016 dismissed the complaint, discharged the accused, against which, the complainant had preferred the above appeal.

2.The learned counsel for the appellant submitted that the appellant examined himself as PW1 and marked 14 documents. Exs.P1 to P9 are the original cheques, which were issued by the respondent on various dates for purchase of chemicals. According to the appellant, the appellant is a dealer in chemical and the respondent used to purchase chemical on credit basis and the respondent issued nine cheques to discharge his liability towards the purchase of chemicals. On the request of the appellant, the first four cheques, namely, Exs.P1 to P4 were presented for collection on 27.01.2011 and the balance five cheques on 04.02.2011. Both set of cheques were returned on



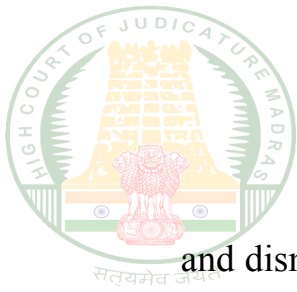
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27.01.2011 and 05.02.2011, respectively, for the reason 'Funds Insufficient'.

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Thereafter the appellant sent statutory notice on 13.02.2011, which was received by the respondent on 17.02.2011. But the respondent neither paid the cheque amount nor sent any reply/denial. Thereafter following the statutory procedure, complaint filed. The ground on which, the trial Court dismissed the appeal is that though the appellant had stated that it is a business transaction, he failed to file any statement of accounts, credit bills, daily register and sales register. On this point complaint dismissed. The respondent explanation is that cheques given as security but not probalised his defence to show that this security cheques have been discharged and what was the arrangement made thereafter. In such circumstances, Sections 118 and 139 of N.I. Act comes into play.

3.He further submitted that the complainant filed the complaint as partner of Ganesh Chemicals. The trial Court finding that the partnership deed not produced is fatal, but the respondent not denied the appellant's status as partner. When there is no denial, the trial Court finding it as fatal



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and dismissing the complaint is not proper. He further submitted that the bills

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were filed along with the complaint, by oversight failed to mark the same but

later an attempt to mark was denied. Hence, prayed to allow this appeal

4.The learned counsel for the respondent opposed the appellant's contention submitting that appellant's status as Partner in Ganesh Chemicals is not proved. The complaint filed in the name of Ganesh Chemicals. The appellant ought to have produced some documents to show that he was authorised on behalf of partnership firm to proceed with the complaint. He further submitted that the trial Court rightly found that the appellant's status as Partner of Ganesh Chemicals is denied. Further the appellant not produced relevant bills such as Credit bill, sale bill, daily register and sale register. Further the appellant/PW1 in his evidence admits that he used to issue credit bills during the purchase of bills. In such circumstances, production of credit bills is necessary. The appellant/PW1 not cross examined immediately, he was cross examined later, but then too, not taken any steps to produce the bills, which was rightly referred by the Lower Court that PW1 was examined



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on 20.03.2014 and marked Exs.P1 to P9. Thereafter, he was cross examined

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on 01.11.2014. Nearly about 7 months after his chief examination, the

appellant not taken any steps to produce bills but belatedly wanted to insert

credit bills, which was dismissed by the trial Court, against which, the

appellant approached this Court by filing Crl.O.P.No.26586 of 2015 and this

Court dismissed the appellant's plea by the order dated 25.01.2016. The trial

Court relying upon the judgment of the Hon'ble Apex Court in a case of

M.S.Narayana Menon @ Mani vs. State of Kerala and another reported in

2006 (3) CTC 730 and the judgment of this Court in ***M/s.India Steel &***

Alloys vs. M/s.Venkatesa Industrial Suppliers and another reported in ***2015***

(1) TLNJ 474 (Criminal), thoroughly analysed the evidence and rightly

dismissed the complaint and there is no perversity or reason to interfere with

the judgment of the trial Court. Hence, prayed to dismiss the appeal.

5.Considering the submissions made on either side and on perusal of the materials, it is seen that in this case as contended by the learned counsel for the respondent, the appellant not produced any materials to prove that he



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is the Partner of Ganesh Chemicals. Further, when the appellant admitted that

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sale of chemical on credit basis, credit bills will be issued, the same not produced. The trial Court rightly found that none of the documents, viz., statement of accounts, credit bills, sale bill, daily register and sales register produced. The cheques issued during regular business transaction have been later projected as though the cheques issued for discharge of liability. But the said liability unable to be proved by the appellant. The trial Court by a well reasoned judgment, considering all these aspects, dismissed the complaint. The trial Court judgment is a well reasoned one, this Court finds no reason to interfere with the judgment of the trial Court.

6. Accordingly, the Criminal Appeal stands dismissed.

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Index : Yes / No

Neutral citation : Yes / No

Internet : Yes/No

Speaking / Non-speaking order

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1.The Judicial Magistrate No.I,
Erode.

2.The Public Prosecutor,
High Court, Madras.



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