



Crl.A.No.814 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 11.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

Crl.A.No.814 of 2012

R. Jayakrishnan

...Appellant

Vs.

P. Gunaprakash

...Respondent

PRAYER: Criminal Appeal filed under Section 378(4) of Cr.P.C, to set aside the order passed in S.T.C. No.261 of 2012 dated 06.09.2012 on the file of the learned Judicial Magistrate Fast Track Court No.II, Erode.

For Appellant : No Appearance

For Respondent : M. Guruprasad
D. Lakshmi Pathy



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JUDGMENT

This appeal is filed against the judgment of the learned Judicial Magistrate Fast Track Court No.II, Erode dated 06.09.2012, made in S.T.C. No.261 of 2012. By the said judgment, the Trial Court acquitted the respondent/ accused of an offence under Section 138 of the Negotiable Instruments Act, 1881.

2. The case of the complainant is that, in order to meet out his urgent expenses, the accused had borrowed a sum of Rs.1,50,000/- promising to repay the same with interest at the rate of 18% per annum on 15.03.2009 and also issued a cheque in discharge of his liability on the same day. When the cheque was presented for collection, it was returned dishonoured with the endorsement "Funds Insufficient" and after issuing legal notice, the complaint was filed. After recording the sworn statement, the accused was summoned and upon appearance, furnishing of copies, the accused denied the allegations and stood trial.

3. In order to bring home the charge, the complainant examined himself as P.W.1 and Exs.P.1 to P.7 were marked on behalf of the



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complainant. Upon questioning about the incriminating evidence and circumstances on record as per Section 313 of Code of Criminal Procedure, the accused denied the same as false. Thereafter, the accused examined himself as D.W.1 and Exs.D.1 to D.8 were marked.

4. The Trial Court thereafter considered the documents that are marked by the accused and the cross examination of the complainant, the Trial Court considered the fact there were two civil suits in O.S.No.279 of 2008 and O.S.No.248 of 1995 were pending between the parties. The Trial Court considered that the accused had filed a written statement in O.S.No.279 of 2008 even as on 16.04.2009, making many allegation over the complainant as per Ex.D.6. But the version of the complainant as if the amount was advanced on 15.03.2009 and the cheque was issued in respect thereof remained unbelievable. Therefore the Trial Court held that the accused by letting in contra evidence and by cross examining the complainant has rebutted the presumption and the case of the accused that the cheque is being filled up and utilized by the complainant was deemed to be probable and giving the benefit of doubt, the respondent/ accused was acquitted of the case.

5. Aggrieved by which, the present appeal is filed on the ground



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that the complainant is armed with presumption under the Act and even though the accused denied the signature had not done so very categorically, which shows the uncertain nature of the defence of the accused and therefore, it is prayed that this Court should interfere in the matter.

6. Considering the fact that the parties are at loggerheads before the Civil Court and the pleadings that are made in the Civil Court and the same is being marked as exhibits by the defendant, the Trial Court on appreciation of evidence arrives at a finding that the version of the accused is probable and grant the benefit of doubt to the accused. This Court in an appeal against acquittal is unable to hold the said finding as an impossible view or a perverse and as such this appeal against the acquittal is bound to fail.

7. Accordingly, finding no merit, this appeal stands *dismissed*.

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Neutral Citation: Yes/No
stn



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To
The Judicial Magistrate Fast Track Court No.II,
Erode.



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D.BHARATHA CHAKRAVARTHY, J.

stn

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