IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-07-2025

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL A No. 94 of 2006
AND
CRL A NO. 725 OF 2012,CRL A NO. 710 OF 2012,CRL A NO. 711 OF 2012,CRL A NO. 709 OF 2012,CRL A NO. 708 OF 2012,CRL A NO. 185 OF 2006,CRL A NO. 699 OF 2012,CRL A NO. 410 OF 2006,CRL A NO. 718 OF 2012,CRL A NO. 155 OF 2006,CRL A NO. 156 OF 2006,CRL A NO. 409 OF 2006,CRL A NO. 403 OF 2006,CRL A NO. 404 OF 2006,CRL A NO. 405 OF 2006,CRL A NO. 157 OF 2006,CRL A NO. 183 OF 2006,CRL A NO. 184 OF 2006,CRL A NO. 719 OF 2012,CRL A NO. 150 OF 2006,CRL A NO. 152 OF 2006,CRL A NO. 416 OF 2006,CRL A NO. 698 OF 2012,CRL A NO. 721 OF 2012,CRL A NO. 717 OF 2012,CRL A NO. 720 OF 2012,CRL A NO. 96 OF 2006,CRL A NO. 95 OF 2006,CRL A NO. 714 OF 2012,CRL A NO. 713 OF 2012,CRL A NO. 712 OF 2012,CRL A NO. 414 OF 2006,CRL A NO. 411 OF 2006,CRL A NO. 412 OF 2006,CRL A NO. 413 OF 2006,CRL A NO. 415 OF 2006,CRL A NO. 406 OF 2006,CRL A NO. 407 OF 2006,CRL A NO. 408 OF 2006,CRL A NO. 726 OF 2012,CRL A NO. 703 OF 2012,CRL A NO. 731 OF 2012,CRL A NO. 730 OF 2012,CRL A NO. 728 OF 2012,CRL A NO. 727 OF 2012,CRL A NO. 697 OF 2012,CRL A NO. 723 OF 2012,CRL A NO. 705 OF 2012,CRL A NO. 724 OF 2012,CRL A NO. 154 OF 2006,CRL A NO. 153 OF 2006,CRL A NO. 151 OF 2006,CRL A NO. 701 OF 2012,CRL A NO. 702 OF 2012,CRL A NO. 722 OF 2012,CRL A NO. 700 OF 2012,CRL A NO. 704 OF 2012,CRL A NO. 716 OF 2012,CRL A NO. 715 OF 2012,CRL A NO. 707 OF 2012,CRL A NO. 696 OF 2012,CRL A NO. 706 OF 2012,CRL A NO. 732 OF 2012,CRL A NO. 729 OF 2012

CRL A No. 94 of 2006
1. Integrated Finance Company
No.10, R-block, 2nd Floor, Prem Nagar
Colony, South Boag Road, T Nagar,
Chennai-600 017

Appellant(s)

Vs

1. M/s. Ravishankar Industries
Private Limited, No.2, Sarangapani St.,

T.Nagar, Chennai-17. Rep. By
Managing Director, Mr. A. Ravishankar
Prasad

2.A. Ravishankar Prasad
Managing Director, M/s. Ravishankar
Industries Private Ltd., T.Nagar,
Chennai-17.

3.A. Manohar Prasad
Director, M/s. Ravishankar Industries
Private Ltd., T.Nagar, Chennai-17.

Respondent(s)

Prayer: This Criminal Appeal is filed under Sec.378 of the Criminal Procedure Code, against the judgment passed in CCNo.6199 of 1998, dated 20.07.2005 by the learned XVII Metropolitan Magistrate, Saidapet, Chennai.

In all the Criminal Appeals:

For Appellant: :Mr.K.P.Anantha Krisha, assisted by Mr.J.Jawahar in all Crl.Appeals

For Respondents: :Mr.R.Karthikeyan, R.Bharanidaran for RR1 & 3 in Crl.A.No.94/2006

: R2 abated in all Crl.Appeals

: Mr.S.Gopalakrishnan,for Official liquidator.

COMMON ORDER

All these matters originate from the transaction between the same parties,

https://www.mhc.tn.gov.in/judis

and as such, they are taken up and disposed of together by this common judgement.

2.In all these cases, the respondents/accused were acquitted of the offences under Sec. 138 of the Negotiable Instruments Act, 1881, by the trial court in the various Calendar Case Numbers. The following tabular column would reflect the calendar case numbers:

Sl.No.	Crl.A.No.	C.C.No.
1	94/06	6199/1998
2	95/06	4887/1999
3	96/06	4225/2001
4	150/06	3514/2001
5	151/06	1362/1999
6	152/06	3226/1999
7	153/06	90/2000
8	154/06	6355/1999
9	155/06	6730/1998
10	156/06	4228/1999
11	157/06	6354/1999
12	183/06	7224/1999
13	184/06	2430/1998
14	185/06	1320/1999
15	403/06	591/1999
16	404/06	2360/1998
17	405/06	6598/1998
18	406/06	6599/1998
19	407/06	756/1999
20	408/06	760/1999

Sl.No.	Crl.A.No.	C.C.No.
21	409/06	1319/1999
22	410/06	3223/1999
23	411/06	3224/1999
24	412/06	4222/2001
25	413/06	4323/1999
26	414/06	4324/1999
27	415/06	5753/1999
28	416/06	8498/1999

3.The simple case of the complainant in each of the cases is that the respondent/accused is in the business of making films. For that, they needed machinery and equipments for the production of the films. Accordingly, for the purchase of machinery such as tungsten lights, other machinery etc., they approached the complainant, which is a company involved in the business of advancing finances by way of hypothecation etc. After scrutinising the application, the first agreement of hypothecation was entered into in HP94COR00037 on 16.11.1994. The total sum of Rs.2 crores was advanced as a loan towards the purchase of machinery and the machinery were supplied under invoices in which the complainant company was shown as the owner and the accused company is shown as the hire purchaser. Thereafter, once again, some more machinery were also purchased, and yet another lease agreement No. LE 96MAA 103 dated 4.4.1996, for a sum of Rs. 11,493,180/- was entered into .

Accordingly, the second lease, a higher purchase agreement was entered into vide agreement number LE 96MAA 103 dated 4.4.1996.

4. The monthly instalment that was payable was Rs.5,55,000/-. The accused company had also started paying several instalments. However, in due course, from the year 1995-96, there were defaults. While these agreements were in force, since the accused company started defaulting, in order to keep the limitation period alive and also to avoid taking drastic steps such as re-possession of machinery and initiating legal action as against the accused, by only capitalising the subsequent interest and also the instalments which are not covered by any other cheque bounce cases, the third agreement dated HP97MAA00352 dated 31.03.1998 and the fourth agreement in HP98MAA00127 dated 28.09.1998 were entered into.

5. In respect of the payments of the instalments, the cheques which are the subject matter of these cases were issued. Upon the cheques being presented on the relevant dates, the cheques were dishonoured with the endorsement of 'insufficient funds.' When demand notices under Sec. 138 of the N.I.Act were issued, no reply was sent by the accused persons. Thereafter, when all these

cases were filed, initially, a decision was rendered on 20.07.2005 in about 30 cases. Because these were batch cases; in many cases, even the recording of evidence seems to have been done in a mechanical manner by adopting cut and paste method. In many cases, the facts are distorted, the documents are incorrectly mentioned etc. Only in some cases when Ex.D1 is marked, however, it is shown as Ex.D1 in the cases where no documents were marked by the defence as well. Similarly, there are errors in quoting the prosecution-side evidence also. However, the procedure adopted in all these cases is that the authorised persons were examined as PW.1, PW.2, and PW.3, and the exhibits, namely the concerned hire purchase agreement, the cheque, the written memo, the 138 notice, etc., were marked in all these cases.

6. Thereafter, when the accused were questioned under Sec. 313 of the Code of Criminal Procedure on the incriminating materials on record, the accused denied the same. After that, three witnesses were also examined on behalf of the accused, being the employees of the first accused company. The trial court thereafter considered the evidence on record. Firstly, the complainant ought to have disclosed the details of these subsequent contracts entered into for

https://www.mhc.tn.gov.in/judis

the purpose of capitalising the default amounts and therefore, the same is a fault on the part of the complainant.

7. Secondly, it held that when a subsequent agreement has been entered into, the majority of the cheques which are supposed to be issued in respect of the original agreements cannot still be filled up and presented by the complainant organization and therefore, in the absence of any liability towards the first and the second agreements, which are superseded by the third and fourth agreements, the complainant has failed to prove that there existed a legally enforceable liability.

8. The trial court also further found that the complainant, having entered into the lease cum hire purchase agreement, had also failed to prove the delivery of machinery to the accused company, especially when the accused has denied that the machinery were never supplied to them. Finally, the trial Court found that when the entire case is in doubt as to for which agreement the cheque has been issued and whether there exists a liability, etc., it was unsafe for the court to convict the accused and gave the benefit of the doubt and acquitted the

accused, as against which all these appeals are filed.

9. The trial has also held that the company secretary had only issued the board resolution extract, and it ought to have been issued only by the Managing Director and therefore, when the power agent is empowered only by such a faulty resolution, the concerned individual is also not entitled to bring forth the case on behalf of the company and as such, the complaint is bound to fail and the accused is acquitted, by which all these appeals are filed.

10. Mr. K.P.Anantha Krishna, appearing on behalf of the complainant would submit that the finding that the Ex.P1 resolution by the company is given by the company secretary is erroneous. It can be seen that Ex.P1 is an extract that is issued by the Company Secretary. The Board has passed the resolution, and the Company Secretary has issued the extract by virtue of Sec. 118 of the Companies Act, and the guidelines issued thereunder. The extract of the minutes can very well be issued by the company secretary. Therefore the acquittal based on this ground is erroneous in law.

11. The learned counsel would then submit that it is for the trial court to have taken care to check whether the particular evidence is on record, and

https://www.mhc.tn.gov.in/judis

without even checking the particular evidence on record, in a mechanical manner mentioning documents which were not even marked, considering the exhibits that are marked in the other cases, etc., if the judgement is delivered and many of the judgements were not even mentioning the concerned cheque numbers, there is absolute non-application of mind. In such cases, treating it as an extraordinary case, this court should reverse the finding of acquittal, and if further evidence is necessary, the matter can even be remitted back to the trial court to conduct the retrial from the stage in which it is warranted.

12. The counsel would further submit that as far as the finding that the third and fourth agreements subsume the first and second agreements is concerned, the same is a perverse finding. PW.3 in the cross-examination has categorically mentioned that only in respect of those instalments for which the cheque-bounce cases were not filed were shown in the third and fourth agreements, and therefore, wherever the cheque bounce case is filed, the same would not have been subsumed by the third and fourth agreements. In any event, it can be seen that the accused, after taking the machinery, paid neither the amount under the first and second agreements nor under the third and fourth

https://www.mhc.tn.gov.in/judis

agreements. The total amount that is claimed is not a double claim, but it is only a single claim.

13. Therefore, on a composite reading of the evidence that is let in all these cases, firstly by marking the statements of account and the invoices the complainant has proved the advancing of loans. The accused was repaying through the very same method of issuing postdated cheques and the fact that several instalments were being paid is proved by the complainant. When a default has occurred, the concerned cheques have been presented and the notice under Sec.138 has been issued, no reply whatsoever was issued by the accused. Further, when the complaint is filed the presumption ensures in favour of the complainant.

14. The accused, in order to dispel the presumption, ought to have either let in credible evidence that they discharged their liability or that the liability never existed at all. Both these things were never done by the accused. As a matter of fact, the defence itself is with reference to the accounts. They were only trying to establish that the amount was taken over by the third and fourth agreements. Even then, the Trial Court has acquitted in respect of all the cases

https://www.mhc.tn.gov.in/judis

which are covered even under the third and fourth agreements.

15. The learned counsel by relying upon the judgement of the Hon'ble Supreme Court of India in ***Gimpex Private Limited Vs. Manoj Goel,*** reported in ***(2022)11SCC705***, more specifically paragraph No. 33 onwards, would submit that this case is also identical with that of the present case.

16. The Hon'ble Supreme Court found that when the accused has not pleaded or not proved that either in the first agreement or in the second transaction the amounts were repaid, merely because the complaints were filed in respect of both the agreements, the complainant can not be non suited, as the liability existed even as on the date of grant of acquittal. Therefore, the learned counsel would submit that by following the same ratio in all these cases, the findings of the trial court are nothing but perverse and deserve to be overturned as to one of conviction.

17. The learned counsel would further rely upon the latest judgement of the Hon'ble Supreme Court in ***Rajesh Jain Vs. Ajay Singh***, reported in ***AIR 2023 SC 5018*** more specifically for the proposition as to how the court would

https://www.mhc.tn.gov.in/judis

deal with the presumption and the burden is on the accused to rebut the same. The learned counsel would rely upon paragraph No. 35 onwards of the said judgement and point out that ultimately, after considering the overall facts and circumstances in paragraph Nos. 53 and 54, the Hon'ble Supreme Court of India had found that unless the accused establishes concretely with reference to the discharge of liability or to the fact that no liability exists at all, the presumption cannot be held to be rebutted just at the drop of the hat merely because some cross-examination here and there was made.

18.The learned counsel would also bring to the notice that in several of these cases appeals were actually allowed but, however, were recalled by the court only on the ground of the subsequent decision of the Hon'ble Full court of this Court where the district court had jurisdiction or not.

19. The learned counsel would also argue that on account of these mistakes that were also committed during the course of the trial by the concerned court, the complainant had to face other cases including the cases under the Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act, 1997 and is unable to repay the loan that is borrowed, the

https://www.mhc.tn.gov.in/judis

complainant is being hauled up in the other cases.

20. On behalf of the Official Liquidator, a status report is filed, in which it is stated that he has got no role in the entire transactions.

21. *Mr. R. Karthikeyan*, learned counsel representing on behalf of Accused No. 3, would submit that the first respondent/first accused company, M/s. Ravishankar Industries Pvt. Ltd., has been liquidated, and it is represented by the official liquidator. The second accused in this case, namely Mr.Ravishankar Prasad, has died, and all these appeals have to be treated as abated with reference to Accused No. 2.

22. Now contesting the matter on behalf of Accused No.3, namely A. Manohar Prasad, he would submit that firstly it can be seen that by cross-examination of the complainant-side witnesses, the accused side has established that the debt is alleged only in respect of the first and second lease agreements. When the unpaid debt is already taken over by the third and fourth lease agreements in the year 1997 itself, thereafter filing all these cases with reference to the instalments that arise on subsequent dates of the third and fourth agreements should straight away be rejected by this Court.

https://www.mhc.tn.gov.in/judis

23. He would point out the statement that is filed by the learned counsel on behalf of the complainant; it can be seen that 8 cases were filed in respect of the first lease agreement and 27 cases were in respect of the second lease agreement. Of these cases, at least 6 cases were of the year 2012 in respect of the first agreement, and the cheques which are mentioned with reference to the installments that are supposed to arise after entering into the third and fourth lease agreements. Therefore the entire case of the complainant is, on the face of it, doubtful.

24. Even with reference to the third and fourth agreements, it can be seen the agreements were lease-cum-hire-purchase agreements. The said agreement itself is categorically mentioned as if the complainant has let out those machineries to the accused. The accused side has categorically pleaded that what is contained in the third and fourth agreements, as if the machinery were being let out for them, cannot be proved, as the machinery are hitherto supplied only under the first and second agreements.

25. Even with reference to the first and second agreements, it is the specific case of the accused that the machinery were never supplied and these

https://www.mhc.tn.gov.in/judis

were financial transactions that existed between these two companies, and for reasons best known to the individuals of both of the companies, such kinds of transactions were entered into. However, when postdated checque were issued, the same were misused by the complainant without any liability whatsoever, and therefore, when the accused has pointed out there exists a genuine dispute with reference to the liability, then no exception can be taken to the finding of acquittal by the trial Court.

26. I have considered the rival submissions that were made on either side and perused the materials on record, which is shown.

27. At the outset as stated by the learned counsel for the complainant, there is complete non application of mind in many of the cases. Since it is a batch of cases, the trial court has merely gone by the learned counsel appearing on behalf of either side and has, without even caring to check whether those exhibits have been marked under the concerned Calendar Case Nos., have gone ahead to deliver judgments in batches and ought to have at least prima facie verified whether the concerned exhibits are marked in the particular cases or not and even in a batch of cases where simultaneous evidence is recorded further

care should have been taken that due exhibits are marked with reference to each and every case and the records truly reflect what is stated in the judgment.

28.Be that as it may, in the normal course, this court would have remanded the matter. However, it can be seen that the Calendar case is of the year 1998 and that we are now in the year 2025. The first accused company has already been liquidated, and the second accused has since died. Therefore, it is the third accused who will be facing the proceedings. Therefore, instead of carrying out the exercise of remand, this Court requested the learned counsel for the appellant to make submissions and point out that overall allegations against the accused are proved so that a decision can be taken on whether the finding of acquittal by the trial court deserves interference.

29.The learned counsel by pointing out the merits to the merits of the case, would categorise all these cases into five subheadings, and would relate to the concerned hire purchase agreement, and the statement that is produced by the learned counsel is reproduced hereunder:

HP AGREEMENT NO. HP94COR00037 DATED 16-11-1994 AMOUNT Rs.3,39,00,000/-

sl no	CC NO	CRL A	COMPANY NAME	SIGNATURE	CHEQ NO	CHQ DT	CHQ AMT	PRESENT DT	RETURN DT	NOTICE DT	COMP FILED DT
1	594/99	717/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657375	16-10-1999	565000	16-10-1999	20-10-1999	21-10-1999	09-12-1999
2	6356/99	705/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657365	16-12-1998	565000	24-05-1999	25-05-1999	07-06-1999	14-07-1999
3	8210/99	713/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657373	16-08-1999	565000	16-08-1999	18-08-1999	24-08-1999	04-10-1999
4	7020/99	709/2012	RAVISHANKAR INDUSTR	MANOHAR PRASAD	657371	16-06-1999	565000	16-06-1999	17-06-1999	26-06-1999	13-08-1999
5	678/00	718/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657391	01-11-1999	194000	01-11-1999	02-11-1999	04-11-1999	17-12-1999
6	8531/99	716/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657372	16-07-1999	565000	04-09-1999	06-09-1999	07-09-1999	25-10-1999
7	6199/1998	94/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	657361	16-08-1998	565000	17-08-1998	18-08-1998	19-08-1998	21-09-1998
8	4887/1999	95/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	657368	16-03-1998	565000	17-03-1999	19-03-1999	25-03-1999	21-07-1999

LEASE AGREEMENT NO. LE96MAA103 DATED 4-4-1996 AMOUNT Rs.1,14,93,180/-

sl no	CC NO	CRL A	COMPANY NAME	SIGNATURE	CHEQ NO	CHQ DT	CHQ AMT	PRESENT DT	RETURN DT	NOTICE DT	COMP FILED DT
1	720/01	729/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	348803	01-11-2000	172200	01-11-2000	02-11-2000	03-11-2000	13-12-2000
2	8528/99	715/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657389	01-09-1999	194000	01-09-1999	03-09-1999	06-09-1999	25-10-1999
3	1048/2001	731/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	348805	01-01-2001	172200	02-01-2001	03-01-2001	04-01-2001	13-02-2001
4	986/2001	730/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657400	01-08-2000	172200	01-08-2000	02-08-2000	04-08-2000	15-09-2000
5	1453/00	720/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657392	01-12-1999	194000	13-12-1999	14-12-1999	16-12-1999	24-01-2000
6	7255/99	711/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657387	01-07-1999	194000	01-07-1999	02-07-1999	08-07-1999	20-08-1999
7	4076/01	732/2012	RAVISHANKAR INDUSTR	MANOHAR PRASAD	348808	01-03-2001	172200	02-03-2001	03-03-2001	03-03-2001	12-04-2001
8	7634/00	728/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	348801	01-09-2000	172200	01-09-2000	04-09-2000	05-09-2000	16-10-2000
9	5259/00	727/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657398	01-06-2000	172200	01-06-2000	02-06-2000	05-06-2000	19-07-2000
10	4046/00	726/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657396	01-04-2000	172200	01-04-2000	04-04-2000	10-04-2000	16-05-2000
11	1856/00	722/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657393	01-01-2000	194000	03-01-2000	04-01-2000	05-01-2000	21-02-2000
12	688/00	719/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657388	01-08-1999	194000	02-08-1999	03-08-1999	17-08-1999	
13	4892/99	699/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657384	01-04-1999	194000	03-04-1999	05-04-1999	10-04-1999	12-05-1999
14	2795/00	724/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	657394	01-02-2000	194000	01-02-2000	03-02-2000	05-02-2000	06-03-2000
15	591/98	403/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	657378	01-10-1998	194000	03-10-1998	05-10-1998	06-10-1998	12-10-1999
16	2360/98	404/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	657380	01-12-1998	194000	01-12-1998	02-12-1998	07-12-1998	29-01-1999
17	4222/2001	412/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	822356	01-09-1998	205000	01-09-1998	02-09-1998	04-09-1998	06-10-1998
18	5753/1999	415/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	657385	01-05-1999	194000	03-05-1999	04-05-1999	15-05-1999	21-08-1999
19	3514/2001	150/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	348804	01-12-2000	172200	01-12-2000	02-12-2000	05-12-2000	17-01-2001
20	1362/1999	151/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	657379	01-11-1998	194000	02-11-1998	03-11-1998	04-11-1998	09-12-1998
21	3226/1999	152/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	657382	01-02-1999	194000	01-02-1999	02-02-1999	12-02-1999	12-03-1999
22	90/2000	153/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	657390	01-10-1999	194000	04-10-1999	05-10-1999	06-10-1999	19-11-1999
23	6355/1999	154/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	657381	01-01-1999	194000	24-05-1999	25-05-1999	07-06-1999	14-07-1999
24	6730/1999	155/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	657377	01-09-1998	194000	01-09-1998	02-09-1998	04-09-1998	05-10-1998
25	4228/1999	156/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	657383	01-03-1999	194000	04-03-1999	04-03-1999	11-03-1999	20-04-1999
26	6354/1999	157/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	657386	01-06-1999	194000	01-06-1999	02-06-1999	07-06-1999	14-07-1999
27	4225/2001	96/2006	RAVISHANKAR INDUSTR	MANOHAR PRASAD	348809	01-04-2001	9567	20-04-2001	21-04-2001	25-04-2001	31-05-2001

HP AGREEMENT NO. HP96MAA00527 DATED 30-3-1997 AMOUNT Rs.1,36,20,000/-

https://www.mhc.tn.gov.in/judis

sl no	CC NO	CRL A	COMPANY NAME	SIGNATURE	CHEQ NO	CHQ DT	CHQ AMT	PRESENT DT	RETURN DT	NOTICE DT	COMP FILED DT
1	5646/99	701/2012	GEMINI INDUSTRIES	MANOHAR PRASAD	822364	01-05-1999	205000				16-08-1999
2	4891/99	698/2012	GEMINI INDUSTRIES	MANOHAR PRASAD	822363	01-04-1999	205000	03-04-1999	05-04-1999	10-04-1999	12-05-1999
3	6404/99	706/2012	GEMINI INDUSTRIES	MANOHAR PRASAD	822365	01-06-1999	205000	01-06-1999	02-06-1999	07-06-1999	15-07-1999
4	6431/99	708/2012	GEMINI INDUSTRIES	MANOHAR PRASAD	822360	01-01-1999	205000	24-05-1999	25-05-1999	07-06-1999	16-07-1999
5	6598/1998	405/2006	GEMINI INDUSTRIES	MANOHAR PRASAD	822356	01-09-1998	205000				
6	756/1999	407/2006	GEMINI INDUSTRIES	MANOHAR PRASAD	822357	01-10-1998	205000	03-10-1998	05-10-1998	07-10-1998	26-11-1998
7	3224/1999	411/2006	GEMINI INDUSTRIES	MANOHAR PRASAD	822361	01-02-1999	205000	01-02-1999	02-02-1999	12-02-1999	11-03-1999
8	4324/1999	414/2006	GEMINI INDUSTRIES	MANOHAR PRASAD	822362	01-03-1999	205000	03-03-1999	04-03-1999	11-03-1999	24-03-1999
9	7224/1999	185/2006	GEMINI INDUSTRIES	MANOHAR PRASAD	822366	01-07-1999	205000	01-07-1999	02-07-1999	08-07-1999	18-08-1999
10	1320/1999	183/2006	GEMINI INDUSTRIES	MANOHAR PRASAD	822358	01-11-1998	205000	02-11-1998	03-11-1998	04-11-1998	09-12-1998

HP AGREEMENT NO. HP97MAA00352 DATED 31-3-1998 AMOUNT Rs.2,39,40,540/-

sl no	CC NO	CRL A	COMPANY NAME	SIGNATURE	CHEQ NO	CHQ DT	CHQ AMT	PRESENT DT	RETURN DT	NOTICE DT	COMP FILED DT
1	7223/99	710/2012	GEMINI INDUSTRIES	MANOHAR PRASAD	822379	03-07-1999	399009	05-07-1999	06-07-1999	08-07-1999	18-08-1999
2	5754/99	704/2012	GEMINI INDUSTRIES	MANOHAR PRASAD	822376	03-04-1999	399009				02-06-1999
3	6405/99	707/2012	GEMINI INDUSTRIES	MANOHAR PRASAD	822378	03-06-1999	399009				15-07-1999
4	5695/99	703/2012	RAVISANKAR INDUSTRI	MANOHAR PRASAD	822377	03-05-1999	399008	03-05-1999	04-05-1999	15-05-1999	17-06-1999
5	6599/1998	406/2006	GEMINI INDUSTRIES	MANOHAR PRASAD	822369	03-09-1998	399009	03-09-1998	04-09-1998	05-09-1998	
6	760/1998	408/2006	GEMINI INDUSTRIES	MANOHAR PRASAD	822370	03-10-1998	399009	03-10-1998	05-10-1998	07-10-1998	26-11-1998
7	1319/1999	409/2006	GEMINI INDUSTRIES		822371	03-11-1998	399009				21-12-1998
8	3223/1999	410/2006	GEMINI INDUSTRIES	MANOHAR PRASAD	822374	03-02-1999	399009	03-02-1999	04-02-1999	12-02-1999	11-03-1999
9	4323/1999	413/2006	GEMINI INDUSTRIES	MANOHAR PRASAD	822375	03-03-1999	399009	03-03-1999	04-03-1999	11-03-1999	23-04-1999
10	2430/1999	184/2006	GEMINI INDUSTRIES	MANOHAR PRASAD	822372	03-12-1998	399009	03-12-1998	04-12-1998	07-12-1998	01-02-1999

HP AGREEMENT NO. HP98MAA00127 DATED 28-9-1998 AMOUNT Rs.1,40,53,080/-

sl no	CC NO	CRL A	COMPANY NAME	SIGNATURE	CHEQ NO	CHQ DT	CHQ AMT	PRESENT DT	RETURN DT	NOTICE DT	COMP FILED DT
1	7257/99	712/2012	GEMINI INDUSTRIES	RAVISHANKAR PRASA	836060	03-07-1999	234218	03-07-1999	06-07-1999	08-07-1999	20-08-1999
2	4886/99	697/2012	GEMINI INDUSTRIES	RAVISHANKAR PRASA	836056	03-03-1999	234218	10-03-1999	23-03-1999	25-03-1999	11-05-1999
3	2754/00	723/2012	GEMINI INDUSTRIES	RAVISHANKAR PRASA	836067	03-02-2000	234218	03-02-2000	04-02-2000	05-02-2000	13-03-2000
4	1855/00	721/2012	GEMINI INDUSTRIES	RAVISHANKAR PRASA	836066	03-01-2000	234218	03-01-2000	04-01-2000	05-01-2000	21-02-2000
5	5647/99	702/2012	GEMINI INDUSTRIES	RAVISHANKAR PRASA	836058	03-05-1999	234218	03-05-1999	04-05-1999	15-05-1999	17-06-1999
6	8284/99	714/2012	GEMINI INDUSTRIES	RAVISHANKAR PRASA	836061	03-08-1999	234218	03-08-1999	04-08-1999	17-08-1999	07-10-1999
7	3403/00	725/2012	GEMINI INDUSTRIES	RAVISHANKAR PRASA	836065	03-12-1999	234218				12-04-2000
8	4946/1999	700/2012	GEMINI INDUSTRIES	MANOHAR PRASAD	836057	03-04-1999	234218	07-04-1999	08-04-1999	17-04-1999	14-05-1999
9	8498/1999	416/2006	GEMINI INDUSTRIES	MANOHAR PRASAD	836062	03-09-1999	234218	03-09-1999	04-09-1999	07-09-1999	20-10-1999
10	4119/99	696/2012	RAVISANKAR INDUSTRI	RAVISHANKAR PRASA	865599/865598	31-03-1998	2000000	09-06-1998	09-06-1998	10-06-1998	13-07-1998

30. Thereafter, by further pointing out the evidence of PW.3, the learned counsel would submit that in respect of cases to which the cheque bounce cases are filed, the third and fourth agreements were never entered into. Even though PW.3 would make such an answer in the cross-examination, on perusal of the subsequent agreement, namely the third, fourth, and fifth agreements, such clauses are not there in the said agreement. Normally when parties have entered into a higher purchase agreement and there was a default in EMIs, the court can take notice that by capitalising the interest amount, a subsequent lease cum hire purchase agreement will be entered into by the parties, which is the case of understanding between the parties.

31. Therefore, to plead that the instalments against which the cheque bounce cases have been filed are not included in the subsequent agreement, firstly, there must have been a specific pleading in the complaint. Even in the absence thereof, at least during the course of evidence, the complainant should have brought it on record. From the evidence that is brought on record, that is, the agreements marked, would only prove otherwise; therefore, there exists a genuine doubt as to whether the cases in which the cheque has already been

https://www.mhc.tn.gov.in/judis

bounced, the liabilities were not included in the subsequent agreements, and therefore I cannot find the ultimate conclusion of acquittal in respect of the cases that are filed alleging liability towards the higher purchase agreement in HP NO.94 COR0037 and LE96NAA103.

32. The finding of the trial court with reference to the power of attorney agent filing the complaint by the exhibit C1 resolution is erroneous and cannot be upheld by this Court. However, with reference to the ultimate finding of acquittal in all these cases, when the subsequent three agreements were entered into first on 30.03.1997 and thereafter on 31.3.1998 and 28.09.1998, when the accused was able to raise the genuine doubt as to whether the liability in respect of the first and second agreements still exists or was taken over, I am of the view that the ultimate finding cannot be held to be perverse.

33.With reference to the judgment that is relied upon by the learned counsel in the *Gimpex case* (cited supra), it should be noted that in this complaint adequate care was taken by the complainant to specifically plead those facts in the complaint. A reading of the complaint as well as the sworn-in statement makes it seem as if it is a simple case of hypothecation that the cheque was issued for a particular installment and it was defaulted. Even in the cross-examination, PW.1 and PW.2, for many questions relating to the same, have said that the same went to another wing of the company and they do not know. They don't even positively assert that the liability was never extinguished and that it coexists.

34.Therefore, though there cannot be any dispute with reference to the fact that on the mere assertion of some dispute with reference to the second agreement and the third agreement without proving the extinguishment of liability, the accused cannot be said to have rebutted the presumption, especially when the signature on the cheque is not disputed and the postdated cheques were handed over to the complainant with authority to present the same on the respective dates, till on the facts and circumstances of the case, especially when the complainant has not even thoroughly and categorically conducted each and every case by properly marking the concerned document and making appropriate averments in the complaint, at this point of time, when more than 27 years have elapsed, no useful purpose will also be served by remanding the matter back and enabling the complainant to adduce proper evidence in respect

https://www.mhc.tn.gov.in/judis

of each of the cases.

35.With reference to the cases that are arising with reference to the third, fourth and fifth agreements, the case of the accused is that the agreement speaks as if it is a lease cum sale agreement. Admittedly, no new machineries were leased out. It is the case of the accused that the complainant should have proved the leasing of the machinery at least under the first and second agreements. It is their case that when payment is made to the third-party supplier, thereafter the complainant presents himself as the owner of the goods, further proof should have been made by the complainant with reference to the delivery of the goods. The learned counsel for the complainant would submit that the defence on the face of it absurd as the accused did not raise any alarm, and on the contrary, initial instalments were being paid by the accused. When they are executing the agreements with eyes wide open, such defence should not be countenanced.

36. In an appeal against acquittal, when the trial court has taken a veiw after due appreciation of evidence by insisting upon further proof, I am not in a position to hold that such a view taken by the trial court is an impossible view or a perverse view, though another view is possible. I am inclined to take such a

https://www.mhc.tn.gov.in/judis

view, also keeping in mind the elapsed time and subsequent developments, which are all recorded above in this case. Therefore, at this stage and at this distant point of time, I am unable to overturn the finding as to one of guilt. I also find that no useful purpose will be served by remanding the matter back to the trial Court once again to conduct the trial.

37. Therefore, finding no merits all these appeals stand **dismissed**.

30-07-2025

jrs

Neutral Citation:Yes

Note: The Registry is directed to incorporate the individual cause titles for all the cases and issue copies of the order accordingly.

To

The Judge,
XVII Metropolitan Magistrate,
Saidapet, Chennai.

https://www.mhc.tn.gov.in/judis

D.BHARATHA
CHAKRAVARTHY J.

jrs

Crl.A. No.94 0f 2006 and batch.,

30-07-2025

https://www.mhc.tn.gov.in/judis