



Crl.A.No.671 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.11.2025

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.A.No.671 of 2022

V.M.Anthony Raj

...Appellant

Vs.

S.Dhandapani

...Respondent

PRAYER: Criminal Appeal filed under Section 372 of Criminal Procedure Code, pleaded to convict the accused and imprison him along with imposing cost passed in S.T.C.No.287 of 2016 by the Fast Track Court at Ambattur.

For Appellant

: Mr.S.T.Raja

For Respondent

: Mr.M.Venkadeshnan

JUDGMENT

This appeal is filed against the judgment of the learned Judicial Magistrate, Fast Track Court, (Magisterial Level), Ambattur, dated 06.09.2018 made in S.T.C.No.287 of 2016.

2.The case of the complainant is that on 20.04.2016, the accused has approached and borrowed a sum of Rs.2,75,000/- and promised to repay within a



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period of two months. But did not repay the subject amount. After repeated demands, issued the subject matter cheque for the said amount on 25.06.2016. Upon being presented the same returned dishonoured and hence after issuance of statutory notice, the complaint was filed. After recording the sworn statement, the case was taken on file as S.T.C.No.287 of 2016. Upon issue of summons, copies and questioning, the accused denied the imputations and stood trial.

3.In order to bring home the charge, the complainant examined himself as P.W.1. The cheque was marked as Ex.P1; return memo as Ex.P2; statutory notice as Ex.P3; and acknowledgment card as Ex.P4. Upon being questioned about the incriminating materials and material evidence on record under Section 313 of the Code of Criminal Procedure, the accused denied the same as false. Thereafter, on behalf of the defence one Shanmugam, Sub Inspector of Police, T-1 Ambattur Police Station, Ambattur, was examined as D.W1 and Ex.D1, a complaint along with C.S.R receipt was marked through him. The accused examined himself as D.W.2 and one Vadivel Kumar was examined as D.W.3. The wife of the complainant was examined as Court witness as C.W.1. On behalf of the accused Ex.D2 and Ex.D3 were also marked by further cross examining the complainant.



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4.The trial Court thereafter considered the case of the parties and disbelieved the version of the complainant and believed the defence version as probable that one Vadivel Kumar was due to the complainant and his wife witness the sale transaction and the accused being the brother-in-law of the said Vadivel Kumar had gone to the Police Station in respect of the complaint that was given and his cheque was obtained as security. It is the further case that the said Vadivel Kumar has also discharged the liability. Upon considering the case of the accused as probable after appreciating the entire evidence on record the trial Court acquitted the accused as against which the appeal is filed.

5.The learned counsel appearing on behalf of the appellant would submit that P.W.1 complainant has categorically stated that the entire sale transaction between the complainant, his wife and the said Vadivel Kumar and the other members of the family of Vadivel Kumar is a separate transaction. As far as the present transaction is concerned it is pure and simple hand loan. The amount was advanced as cash. The accused was known to the complainant. Upon admission, the accused has issued the cheque. As a matter of fact, detailed cross examination was done in which itself the signature of the accused is admitted in the cheque.



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The complainant has categorically stated that it is on behalf of the accused the cheque was handed over and he did not fill up the particulars in the cheque. Therefore, when the complainant has duly proved the ingredients of the offence under Section 138 of the Negotiable Instruments Act and withstood the cross examination and the alleged defence was only with reference to the sale transaction which has got no connection with the instant loan, the trial Court erred in acquitting the accused.

6.Per contra, the learned counsel appearing on behalf of the respondent would submit that by virtue of Ex.D2 and Ex.D3 the accused has disproved the case of the complainant. Muthulakshmi was also examined as Court witness who admitted the transaction of sale. It has been specifically put to Muthulakshmi during the cross examination that the accused is brother of one of the parties who executed the sale agreement and as such he went to the Police Station and his cheque was also obtained.

7.I have considered the rival submissions on either side and perused the materials on record.



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8. In this case from the evidence available on record it can be seen that the complainant Anthony Raj and his wife Muthulakshmi had given Ex.D1 complaint before the Police Station. The allegation in the said complaint is that one Vadivel Kumar and others being the owners of the property entered into an agreement of sale and obtained an amount of Rs.5,50,000/- from the complainant's wife. But however neither repaid the amount nor executed the sale deed.

9. From the evidence of D.W.1, it is clear that an enquiry was conducted and the matter was closed as civil in nature. He had relegated the parties to the civil Court. It is in this context Ex.D2 and Ex.D3 is produced by the accused side. In Ex.D2 which is the white paper which contains the photo copy of the subject matter cheque bearing No.000105 for a sum of Rs.2,75,000/- dated 25.06.2016 which contain the name of the complainant. It is also written in Tamil that the complainant Anthony Raj is receiving the said cheque on behalf of his wife Muthulakshmi. It is also signed by the complainant and below that the name is also written in Tamil. When Ex.D2 was put to complainant in the further cross examination on 31.01.2018, though the complainant had denied the writings as being his handwriting, however categorically admitted the signature as his and



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WEB COPY accordingly Ex.D2 and Ex.D3 were marked. Absolutely no further explanation was given by way of re-examination with reference to the said signature. The relevant witnesses were also not recalled and cross examined in this regard. Nothing else is also contained in the cross examination with reference to the said signature. Therefore, when collateral sale transaction is pleaded which is categorically evidenced by the testimonies of the Sub Inspector of Police and the said Vadivel Kumar and the complainant's wife Muthulakshmi also admitted those transactions, the accused has let in evidence to the level of preponderance of probability that this cheque was not given with reference to any loan transaction, but in connection to the said sale transaction and as such the case of the accused seem to be probable and the said finding of the trial Court cannot be said to be perverse or implausible so as to upturn in an appeal against acquittal.

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

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Neutral citation : Yes/No



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To

The Judicial Magistrate, Fast Track Court, (Magisterial Level),

Ambattur,



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D.BHARATHA CHAKRAVARTHY, J.,

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