IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.07.2025

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No.742 of 2025

K.V.Enterprises,
Partnership Firm,
Represented by its Partner Mr.P.Vinith,
No.727, Cross Cut Road,
Near North Coimbatore Flyover,
Coimbatore – 641 012. .....Appellant / Complainant

Vs

Ravishankar .... Respondent/Accused

Prayer: Criminal Appeal filed under Section 419 of Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order of acquittal dated 24.06.2024 made in C.C.No.293 of 2019 on the file of the Judicial Magistrate Fast Track Court No.II at Magisterial Level, Coimbatore.

For Appellant : Mr.Adeesh Anto

JUDGMENT

This Criminal Appeal has been preferred as against the order dated 24.06.2024 made in C.C.No.293 of 2019 on the file of the Judicial Magistrate Fast Track Court No.II at Magisterial Level, Coimbatore, thereby dismissing the complaint filed by the petitioner under Section 138 of NI Act by acquitting the respondent.

2. The appellant is the complainant in the complaint lodged by him as against the respondent for the offences under Section 138 of NI Act alleging that the appellant is a registered partnership firm and is doing business in selling plywood and flooring materials in the name and style of K.V.Enterprises. The respondent is also doing business and supplying plywood and flooring materials to the appellant herein. The appellant made a payment to the respondent to the tune of Rs.14,05,400/- along with debit note from 28.11.2013 to 05.05.2014. The respondent had supplied materials to the appellant from 20.03.2014 to 27.06.2014 for a sum of Rs.9,02,640/-. Subsequently, the respondent had also supplied the materials to the appellant at Palakad Branch office from 25.04.2014 to 13.08.2014 to the tune of Rs.7,25,096/-. In total, the appellant had paid a sum of Rs.23,28,632/-. However, the respondent had supplied materials only to the tune of

Rs.16,27,736/-. Thereafter, the respondent promised to deliver the goods for the remaining sum within the month of October, 2018. Despite several demands, the respondent failed to deliver the goods. When the appellant demanded to repay the said amount, the respondent issued a cheque dated 20.12.2018 to a sum of Rs.7,00,896/-. It was presented for collection and the same was returned dishonoured for the reason "funds insufficient".

3. After causing statutory notice, the appellant lodged a complaint. After the trial Court had taken cognizance and on the side of the appellant he had examined P.W.1 and marked Exs.P1 to P16. On the side of the respondent no one was examined and no document was produced. On perusal of the oral and documentary evidence, the trial Court found the respondent not guilty for the offences punishable under Section138 of NI Act and dismissed the complaint. Aggrieved by the same, the present Criminal Appeal has been preferred.

4. The learned counsel for the appellant would submit that the respondent never pleaded that the cheque was issued for time barred debt. Furthermore, the respondent categorically admitted the signature and issuance of the cheque. Therefore, the appellant had discharged his initial burden as contemplated

under Section 138 of NI Act. The respondent did not even rebut the presumption and even then trial Court dismissed the complaint on the ground that the cheque was issued for time barred debt.

5. On a perusal of the records it is revealed that though the respondent did not deny his signature and issuance of cheque, the appellant discharged his initial burden as contemplated under Section 138 of NI Act, it has to be seen whether the cheque was issued for any legally enforceable debt. According to the appellant, the goods were supplied till 13.08.2014 to the tune of Rs.16,27,736/- for the total payment of Rs.23,28,632/- The last adjustment was made on 13.08.2014. Thereafter, there is no proof to show that the appellant made demand of refund of money or supplying of material for the remaining amount. Further, the appellant also failed to produce any acknowledgment from the respondent to show that the respondent agreed to return the balance amount or agreed to supply the goods for the balance amount.

6. On a perusal of the deposition of appellant, it is clear that the appellant made payment from 28.11.2013 to 18.02.2015 along with the debit notes. The respondent had supplied the materials till 13.08.2014. For the debt which was

arising from 14.08.2014, the respondent had issued a cheque on 20.12.2018. Therefore, the outstanding amount payable by the respondent is from 18.02.2015. However the cheque was issued on 20.12.2018. Thus by that time the debt was barred by limitation and there was no valid acknowledgment of the liability within the period of limitation by the respondent herein. Therefore, it was a time barred debt and as such the cheque was issued for any legally enforceable debt. The trial Court has rightly dismissed the complaint and acquitted the respondent. This Court finds no illegality or infirmity in the order passed by the trial Court.

7. Accordingly, this Criminal Appeal is dismissed.

01.07.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Interned : Yes
bkn

To

Judicial Magistrate Fast Track Court No.II at Magisterial Level, Coimbatore.

G.K.ILANTHIRAIYAN, J.

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