



Crl.A.No.262 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2025

CORAM:

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

Crl.A.No.262 of 2023

P.Indirani Ammal

... Appellant

Vs.

D.Rajarathinam

... Respondent

PRAYER: Criminal Appeal filed under Section 378 of Cr.P.C., to allow the Criminal Appeal in set aside the order of judgment of acquittal dated 26.10.2022 by learned Judicial Magistrate No.II, Kanchipuram in C.C.No.252 of 2017.

For Appellant : Mr.K.M.Balaji

For Respondent : Mr.S.Vinod

JUDGMENT

This Criminal Appeal has been filed as against the order dated 26.10.2022, passed by the learned Judicial Magistrate No.II, Kanchipuram, in C.C.No.252 of 2017, thereby acquitted the respondent for the offence under Section 138 of the Negotiable Instruments Act (hereinafter referred to as “the NI Act”).



Crl.A.No.262 of 2023

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2. The appellant filed complaint for the offence punishable under Section 138 of the NI Act as against the respondent alleging that the appellant had executed power of attorney in favour of the respondent to promote the layout in respect of the land owned by her comprised in Survey No.4/1A situated at Vedal Village, Kancheepuram District, to an extent of 1.07 acres out of 2 acres. As per the lay out, there are 53 plots and the respondent sold out 52 plots for a sum of Rs.41,08,400/-. However, the respondent had paid only a sum of Rs.20,00,000/- and he was in due of Rs.21,08,400/-. Towards the balance sale consideration, the respondent issued two cheques for a sum of Rs.5,00,000/- each. Both the cheques were presented for collection and the same were returned dishonoured for the reason funds insufficient. After causing statutory notice, the appellant lodged complaint.

3. On her side, the appellant examined P.W.1 and marked Ex.P.1 to Ex.P.11. On the side of the respondent, no one was examined and no documents were marked. On perusal of oral and documentary evidences, the trial Court acquitted the respondent for the offence punishable under Section 138 of the NI Act. Aggrieved by the same, the present appeal.



Crl.A.No.262 of 2023

WEB COPY

4. The learned counsel appearing for the appellant submitted that the trial Court acquitted the respondent on the ground that the cheques were not issued for any legally enforceable debt. It is an admitted fact that the appellant owned land and entrusted the same to the respondent to develop the same by layout. Accordingly, the respondent laid out the property and 52 plots were sold out of 53 plots. Even then, the respondent had paid only a sum of Rs.20,00,000/-. Insofar as the remaining sale consideration is concerned, the respondent issued two cheques for a sum of Rs.5,00,000/-. Therefore, both the cheques were issued only for legally enforceable debt towards the appellant. Without considering the same, the trial Court acquitted the respondent.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. On perusal of the records, it is revealed that at the time of execution of Power of Attorneys which were marked as Ex.P.2 & Ex.P.3, the respondent issued the cheques as security. Even according to the appellant, she had executed the power of attorney to develop the property. Accordingly, it was laid out into house plots and all the house



Crl.A.No.262 of 2023

plots were sold out from the year 2011 to 2013. The encumbrance certificate was marked as Ex.P.4 and it revealed the same. The specific case of the appellant is that the respondent failed to pay 50% of the sale consideration of the plots. The appellant did not take any steps to recover the same in the manner known to law from the year 2013. Only in the year 2016, both the cheques were presented as if, both the cheques were issued for a sum of Rs.5,00,000/- each. Even assuming that both the cheques were issued towards repayment of the balance sale consideration, it was not matched with the amount, which was allegedly balance payable amount by the respondent. Therefore, the appellant failed to prove that the cheques were issued for legally enforceable debt. Therefore, the trial Court rightly acquitted the respondent and this Court finds no ground to interfere with the order of acquittal passed by the trial Court and hence, the appeal fails

7. Accordingly, the Criminal Appeal stands dismissed.

06.06.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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Crl.A.No.262 of 2023

To
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1. The Judicial Magistrate No.II,
Kanchipuram



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Crl.A.No.262 of 2023

G.K.ILANTHIRAIYAN, J.
rts

Crl.A.No.262 of 2023

06.06.2025