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CRL OP No. 30336 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-04-2025

CORAM

THE HONOURABLE MR JUSTICE P. VELMURUGAN

CRL OP No. 30336 of 2024

in

CRL A SR No.60595 of 2024

1. A.Ashok

S/o. A.K.R Arunchalam,

No.17/5, 11th cross street,

Indira nagar, Adyar, Chennai-600 020

Petitioner(s)

Vs

1. A.John

No.104/144, Canal Bank Road,

Kasthuribai Nagar, Adyar,

Chennai-600 020

Respondent(s)

PRAYER

This Criminal Original Petition is filed under Section 378(4) Cr.P.C./419(4) of BNSS, to grant leave to the petitioner to prefer an appeal against the order of acquittal dated 03.10.2024 passed in STC.No.3938/2022 on the file of the Learned XXVII Metropolitan Magistrate, Fast Track Court for trial of cases under Section 138 Negotiable Instruments Act, Saidapet, Chennai.



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For Petitioner(s): Mr.V.T.Narendiran

For Respondent(s): Mr.P.Suresh Srinivasan

ORDER

This Criminal Original Petition has been filed to grant leave to the petitioner to prefer an appeal against the order of acquittal dated 03.10.2024 passed in STC.No.3938/2022 on the file of the Learned XXVII Metropolitan Magistrate, Fast Track Court for trial of cases under Section 138 of the Negotiable Instruments Act, Saidapet, Chennai.

2. The petitioner is the complainant and the respondent is the accused. The petitioner filed a private complaint under Section 138 of the Negotiable Instruments Act, before the learned XXVII Metropolitan Magistrate, Fast Track Court for trial of cases under Section 138 of the Negotiable Instruments Act, Saidapet, Chennai in STC.No.3938/2022 and the learned Magistrate after enquiry, dismissed the complaint. Challenging the said order, the petitioner/complainant has filed the above appeal before this Court. Since, the appeal is against acquittal, he has also filed this Criminal Original petition to grant leave to prosecute the appeal.



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3. The learned counsel for the petitioner/complainant submitted that the respondent/accused admitted the signature and execution of the cheque.

Though statutory notice was served on him, he has not responded to the same.

Hence, he filed a complaint before the trial court. Without considering the legal presumption, the learned Magistrate passed the impugned order. Hence, the present appeal.

4. Learned counsel for the respondent/accused submitted that the petitioner in his deposition has stated that he lent money to the respondent in the year 2006, whereas the date of issuance of cheque is 11.11.2019. There is a gap about 12 years from the date of lending money and the issuance of the cheque. The trial court rightly held that even assuming that the complainant has actually paid the alleged amount which is a time barred debt. There is no infirmity in the order passed by the trial court.

5. Since execution and signature in the cheque are admitted, there is a legal presumption under Section 139 of the Negotiable Instruments Act. As to whether the respondent has rebutted the presumption or not has to be decided in the appeal.



6. A perusal of the grounds of appeal shows that there are arguable points.

Therefore, leave is granted.

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7. Registry is directed to take the appeal on file, if it is otherwise in order.

02-04-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

The XXVII Metropolitan Magistrate,

Fast Track Court for trial of cases under Section 138 Negotiable Instruments Act, Saidapet, Chennai.



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P.VELMURUGAN J

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