
(2017) 02 GUJ CK 0129
In the Gujarat High Court
Case No : 601 of 2006

DILIPBHAI RAMESHBHAI AMIN

APPELLANT

Vs

STATE OF GUJARAT & ANR.

RESPONDENT

Date of Decision : 01-02-2017

Acts Referred:

[Negotiable Instruments Act, 1881](#), [Section 138](#) - Dishonour of cheque for insufficiency, etc., of funds in the account

Citation : (2017) 02 GUJ CK 0129

Hon'ble Judges : A G Uraizee

Bench : Single Bench

Advocate : D F Amin, J A Adeshra, K M Parikh, K L Pandya

Final Decision : Disposed

Judgement

1. Heard Mr. J. A Adeshra, learned advocate for the appellant and Mr. K.L Pandya, learned Addl. Public Prosecutor for respondent no.1.-State.

2. The appellant filed complaint under section 138 of the Negotiable Instruments Act against respondent no.2 for the dishonour of the cheque of Rs 3,35,000/- in the complaint being criminal case NO. 5678/96 in the Court of Chief Judicial Magistrate , First Class No.7 for disposal in accordance with law, who by judgment and order of conviction dated 29.11.2000 convicted the respondent no. 2 to suffer imprisonment of one year and to pay fine of Rs 5000/-, I.D further imprisonment of 3 years.

3. The respondent no. 2 preferred Criminal Appeal No. 48/2000 before the Sessions Court at Nadiad. The learned Additional Sessions Judge, Kheda, at Nadiad by judgment and order dated 9.10.2003 allowed the appeal and set aside the judgment and order of acquittal passed by learned Magistrate and acquitted the respondent no.2. The appellant original complainant being aggrieved by and dissatisfied with the judgment and order of acquittal passed by the learned Additional Sessions Judge in Criminal Appeal No 48/2000 has preferred the

present appeal. A notice by order dated 29.3.2016, a bailable warrant was issued against the respondent no.2-original accused herein. The said bailable warrant came back unexecuted with an endorsement that respondent no.2 has passed away on 20.10. 2015. Learned Additional Public Prosecutor was requested to verify whether respondent no. 2 has expired or not . Upon verification Mr. K.L.Pandya, learned Addl. Public Prosecutor states that the respondent no.2 has expired. Report of PSI, Nadiad Town Police station and the death certificate are taken on record. In view of the death of respondent no.2, the appeal has become academic and is accordingly disposed of as having become infructuous. Rule is discharged. 5. R& P is ordered to be transmitted to the trial court forthwith.