create some suspicion against the appellant, it would be unsafe to accept that the implicating circumstances have been established by cogent evidence and such circumstances form a complete chain that rules out any other hypothesis except guilt of appellant. Hence, the conviction of the appellant cannot be sustained; she is entitled to the benefit of doubt.

36. Consequently, this appeal is allowed in the manner that the impugned judgment and orders convicting the appellant for the offence punishable under Section 302 IPC are set aside; the appellant is extended the benefit of doubt and is, accordingly, acquitted. Her bail bonds are cancelled and sureties are discharged.

***Result*:-** Appeal allowed.

ABC 2019 (III) 285 SC

ACQUITTAL & BAIL CASES

SUPREME COURT OF INDIA

(Uday Umesh Lalit & Aniruddha Bose, JJ)

Criminal Appeal No. 1509 of 2019

(Arising out of Special Leave Petition (Crl.) No.9099 of 2016)

(From Hyderabad High Court)

Decided on 30 September 2019

B. KRISHNA REDDY ***- Appellant(s).***

Versus

SYED HAFEEZ (DIED) PER LR. SMT. NASEEMA BEGUM & ANR- Respondent(s).

Law Covered*:- *Negotiable Instruments Act, 1881 — Section 138— Cheque given towards consideration for purchase of a property— Neither any document nor any evidence that any conveyance was executed in favour of the appellant— Submission of the appellant that there was no existing debt or liability accepted — acquittal restore. (Para 7)

***Facts*:-** *The allegations in the complaint were that there was an oral sale of a property and towards consideration for said purchase, the appellant had given the cheque for Rs.4,00,000/-. However, the evidence on record discloses that no conveyance was executed in favour of the appellant and, as such, the very basic ingredient was not proved. the Trial Court found that no case was established as against the appellant and therefore the appellant was. However, the view taken by the Trial Court was upset by the High Court and the appellant was found guilty of the offence u/s 138*

of the N.I. Act. The honourable Supreme Court restore the judgment of the trial Court.

Held:- In our view, the offence alleged was that a cheque was given towards consideration for purchase of a property. Neither any document was produced on record nor there was any evidence that any conveyance was executed in favour of the appellant. Thus, the submission of the appellant that there was no existing debt or liability against which the cheque was given had to be accepted. In our view, the High Court was in error in accepting the appeal and upsetting the view taken by the Trial Court. We, therefore, allow this appeal, set-aside the decision of the High Court and restore the judgment and order of acquittal passed by the Trial Court. (Para-7)

Counsel:- ***For Appellant(s):*** *D. Abhinav Rao, Adv.*

For Respondent(s): *S. Udaya Kumar Sagar, Swati Bhardwaj, Advs.*

JUDGMENT

UDAY UMESH LALIT, J.: - 1. Leave granted.

2. This appeal questions the final judgment dated 06.06.2014 passed by the High Court of Judicature at Hyderabad for the States of Telangana and Andhra Pradesh in Criminal Appeal No.1086/2008.

3. On a charge that a cheque in the sum of Rs.4,00,000/- issued by the present appellant had bounced upon being presented for encashment, the appellant was arrayed as accused in Complaint Case No.373 of 2004 on the file of the Judicial Magistrate First Class, Chevella, R.R. District.

4. The allegations in the complaint were that there was an oral sale of a property and towards consideration for said purchase, the appellant had given the cheque for Rs.4,00,000/-. However, the evidence on record discloses that no conveyance was executed in favour of the appellant and, as such, the very basic ingredient was not proved. In the circumstances, the Trial Court found that no case was established as against the appellant and therefore the Trial Court vide its judgment and order dated 06.06.2008 acquitted the appellant of the charge levelled against him.

5. The matter was carried in appeal by the original complainant by filing Criminal Appeal No.1086 of 2008 in the High

Court. The view taken by the Trial Court was upset by the High Court; the appeal was allowed; the appellant was found guilty of the offence under Section 138 of the Negotiable Instruments Act, 1881, and was sentenced to suffer imprisonment till rising of the Court and was also directed to pay a fine of Rs.4,25,000/-, out of which an amount of Rs.4,00,000/- was to be paid to the complainant towards compensation and the remaining amount of Rs.25,000/- was to be paid towards fine to the State.

5. While issuing notice on 18.11.2008, this Court stayed the operation of the impugned judgment passed by the High Court.

6. Though notice was served upon the original complainant, according to the office report, the complainant has not chosen to appear through any Counsel.

7. We heard learned counsel for the appellant as well as the State.

In our view, the offence alleged was that a cheque was given towards consideration for purchase of a property. Neither any document was produced on record nor there was any evidence that any conveyance was executed in favour of the appellant. Thus, the submission of the appellant that there was no existing debt or liability against which the cheque was given had to be accepted. In our view, the High Court was in error in accepting the appeal and upsetting the view taken by the Trial Court.

We, therefore, allow this appeal, set-aside the decision of the High Court and restore the judgment and order of acquittal passed by the Trial Court.

8. The appeal stands allowed in aforesaid terms.

***Result*:-** Appeal allowed.