

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA.

CA 309/99 (F)

DC Kagalle 2666/M

M P MANTHRIRATNA, ASOKA,
HORAGOLLA,
WARAKAPOLA
DEFENDANT-APPELLANT.

H P ASOKA MANTHRIRATNA
**SUBSTITUTED-DEFENDANT-
APPELLANT.**

Vs.

MOHAMED HANIFFA MOHAMED
NALEEM,
MOLAGODA,
KAGALLE.
PLAINIFF-RESPONDENT

Before : A.W.A. Salam, J.

Counsel : ANURUDHDA DHARMARATNA FOR THE
DEFENDANT-APPELLANT.

Argued on : 21.11.2012

Written Submissions tendered on: 12.11.2012

Decided on : 17.01.2013

A W A Salam, J.

The plaintiff-respondent (hereinafter referred to as the "plaintiff") filed an action against the defendant-appellant (hereinafter referred to as the "defendant") on the basis that the latter obtained a sum of Rs.20,000/- and given a cheque for the same and when the cheque was presented for payment it was dishonoured by the bank. According to the plaintiff the cheque had been dishonoured with the remark "account closed".

At the trial the plaintiff raised 5 issues and defendant 6. The main defence was that the outstanding sum due on the cheque was only Rs 5000/- , the defendant having paid the plaintiff a sum of Rs 15000/-. At the trial the plaintiff and the defendant gave evidence and in addition a police officer also testified. The learned district judge having carefully considered the evidence adduced at the trial, came to the conclusion that the version of the defendant that a sum of RS 15,000/- was paid to the plaintiff from and out of the sum of money borrowed, had not been established. Consequently, he entered judgment for the plaintiff. As the judgment is based on the credibility of the parties, I am not inclined to interfere with the judgment of the learned district judge.

Accordingly, the impugned judgment is affirmed and the appeal preferred by the defendant-appellant is dismissed subject to costs.

Judge of the Court of Appeal

NR/-