



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2026

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.754 of 2022

Mohan (aged about 52 years),
S/o.Narayanasamy,
Managing Director Mohan Stores,
Angarayanallur Village,
Gingee Taluk,
Villupuram District.

... Appellant

Vs.

G.Mani (aged about 50 years),
S/o.Govindasamy,
Seranur Village & Post,
Gingee Taluk,
Villupuram District.

... Respondent

PRAYER: Criminal Appeal is filed under Section 378(3) of Code of Criminal Procedure, to set aside the judgment passed in C.C.No.26 of 2015 dated 04.12.2018, on the file of the Judicial Magistrate Court, Gingee and allow the appeal and the respondent/accused may be punished with compensation as per the Negotiable Instrument Act.

For Appellant : Mr.V.R.Appaswamee

For Respondent : Ms.V.Suguna



JUDGMENT

WEB COPY

Appellant as complainant filed a private complaint for offence under Section 138 of Negotiable Instruments Act, 1881 against the respondent before the learned Judicial Magistrate, Gingee in C.C.No.26 of 2015, which was dismissed on 04.12.2018 acquitting the respondent. Against which, the present appeal filed by the appellant.

2.Gist of the case is that the appellant was running supermarket in the name of Mohan Supermarket at Gingee Town, and the respondent was carrying on business in rice and paddy at Appampattu Village. They had a business relationship. For expansion of his business, on 05.09.2014, the respondent requested hand loan of Rs.10 lakhs from the appellant. Considering that the respondent was engaged in the rice and paddy business and taking into account their business relationship, the appellant gave hand loan of Rs.10 lakhs in cash on 15.09.2014. The respondent promised to repay the amount within one month, but failed to do so. After several requests and reminders, on 10.11.2014, the respondent came to the appellant's shop and handed over cheque (Ex.P1) dated 10.11.2014 for Rs.10 lakhs drawn on Indian Bank, Gingee Branch. When the cheque presented for encashment on 26.11.2014, the same returned with an endorsement "Funds Insufficient". Thereafter, a



statutory notice (Ex.P4) dated 06.12.2014 issued. The respondent received the statutory notice on 08.12.2014 and sent reply notice (Ex.P6) on 31.12.2014 with false allegations. Ignorning the same, the appellant filed private complaint before trial Court in C.C.No.26 of 2015. During trial, the appellant examined himself as PW1 and examined one Prakash, Manager of Indian Bank, Gingee Branch as PW2, and marked Exs.P1 to P8. On the side of the defence, one Mr.Elango, Special Sub-Inspector of Police, examined as DW1, and Exs.D1 and D2 marked. On conclusion of trial, the trial Court dismissed the complaint and acquitted the respondent.

3.The learned counsel for the appellant submitted that the respondent not denied the issuance of the cheque (Ex.P1) or the signature thereon, but takes a stand that the cheque (Ex.P1) issued in connection with a chit transaction. Though the respondent examined DW1, Elango, Special Sub Inspector of Kandachipuram Police Station, he merely stated that, during the year 2013, a complaint lodged by the respondent enquired, but DW1 unable to give the date, time, or other details of the complaint. DW1 merely stated that one Mohan and Mani called for enquiry and Ravichandran, Sub Inspector, enquired the complaint with both Mohan and Mani, and nothing more. The evidence of DW1 is not supported by any documentary evidence.



4.He further submitted that the trial Court relied on Exs.D1 & D2, namely, the chit receipts of Mohan Agencies and MAR Agencies, which were not signed by the appellant and got no relevance to the present transaction. The trial Court failed to consider that the respondent not denied the issuance of the cheque (Ex.P1) or his signature thereon, hence, the statutory presumptions under Sections 118 and 139 of the Negotiable Instruments Act, 1881, comes into play. The respondent was unable to probabalise his defence by producing any cogent evidence or material. The trial Court without considering these aspects and dismissing the complaint is not proper. Hence, he prayed for setting aside the judgment of the trial Court.

5.Learned counsel for the respondent submitted that, on receipt of the statutory notice (Ex.P4), the respondent sent detailed reply (Ex.P6), wherein he clearly denied the issuance of the cheque dated 15.09.2014 towards repayment of the hand loan. The appellant not proved how he had such huge amount of Rs.10 lakhs in cash and was in a position to lend the same as hand loan. Except for the cheque (Ex.P1), no other document produced. It is highly unbelievable that the amount of Rs.10 lakhs gave on 15.09.2014 without any supporting document and thereafter, the respondent gave cheque dated 10.11.2014. The respondent explained that the appellant was running a partnership business



along with one Selvaraj and Yasodha in the name of M.A.R. Agencies and a proprietorship business in the name of Mohan Agencies. The respondent was a subscriber to four chit groups for amount of Rs.2 lakhs, Rs.3 lakhs, Rs.5 lakhs and Rs.10 lakhs, respectively. During the chit transactions, four blank cheques and four blank promissory notes collected from the respondent. The chit transactions completed between the years 2009 and 2012. Thereafter, the cheques and promissory notes not returned. Hence, the respondent lodged Police complaint to the Superintendent of Police, Villupuram and on 09.10.2013, the complaint enquired by Mr.Ravichandran, Sub Inspector, attached to Kandachipuram Police Station, as confirmed by DW1. Though it was agreed that the cheques and promissory notes would be returned, the same not returned by the appellant. Thereafter, one of the blank cheques misused by filling the date as 15.09.2014 and presented the same for encashment. After 18.02.2009, this was the specific stand taken by the respondent.

6.She further submitted that though the appellant examined PW2, the Bank Manager, Indian Bank, Gingee Branch, no specific questions put to him by the appellant to establish whether there had been any transaction in the respondent's bank account after 18.02.2009. Exs.D1 and D2 are the chit receipts, which marked through the appellant and which confirm the chit



business. Further, the respondent explained that the appellant admits that he was also carrying on jewellery business, which was presently being managed by his brother, and the respondent had an outstanding due of Rs.91,000/- towards him and agreed to supply 600 bags of rice in lieu thereof. Further, the appellant admits variation in the ink used for writing and the signature in Ex.P1. The appellant also admits the chit transactions and there was a due amount of Rs.24 lakhs from the period between 2010 and 2012 payable by the respondent. In view of the above, the appellant lending of Rs.10 lakhs in cash on 15.09.2014 and the issuance of cheque (Ex.P1) dated 10.11.2014 are highly improbable. No prudent person would lend further loan when already an amount of Rs.24 lakhs due from the respondent. Considering all these aspects, the trial Court rightly dismissed the complaint. Hence, the appeal is liable to be dismissed.

7.Considering the submissions and on perusal of the materials, it is seen that the appellant was running supermarket in the name of Mohan Supermarket at Gingee Town, and the respondent was carrying on business in rice and paddy at Appampattu Village. They had a business relationship. Apart from the supermarket business, the appellant was also running chit business M.A.R. Agencies in partnership with Selvaraj and Yasotha and also running



Proprietorship business in the name of Mohan Agencies. Through the appellant, Exs.D1 and D2, the chit receipts, marked.

8.The specific case of the respondent is that, during the chit transactions in the years 2009 and 2011, four blank signed cheques and four promissory notes collected as security by the appellant. After completion of chit period, the security cheques not returned, and the respondent lodged Police complaint to the Superintendent of Police, Villupuram, which enquired by Mr.Ravichandran, Sub Inspector attached to Kandachipuram Police Station. DW1, Special Sub Inspector of Police confirms the same. After receipt of statutory notice (Ex.P4), the respondent sent detailed reply (Ex.P6) giving all these details.

9.The specific stand of the respondent is that, after 18.02.2009, there were no bank transactions in his account bearing No.749721205. PW2, Manager of Indian Bank, Gingee Branch, confirmed the account of the respondent. The appellant failed to get clarified that there were any bank transactions in the respondent's account after 18.02.2009. Further, the appellant admitted in his evidence that there was due amount of Rs.24 lakhs in the chit transaction from the year 2010 to 2012. In such circumstances, no



prudent person would lend further amount of Rs.10 lakhs in cash without any contemporary document in the year 2014.

10.The respondent gave specific explanation regarding the issuance of the cheque and produced supporting evidence to show that the cheque (Ex.P1) originally issued as security in connection with chit transaction. The evidence of the defence witnesses, coupled with the defence exhibits and the evidence regarding the complaint lodged with the Police, supported the defence of the respondent. Thus, the respondent probablized his defence that a security cheque, which was given in connection with the chit transaction, misused and filled up, and thereafter, the present complaint filed.

11.The trial Court, on appreciation of entire evidence and materials, rightly held that the respondent rebutted the statutory presumption by raising probable defence. Hence, finding of the trial Court that the respondent probabilised his defence does not warrant any interference.



12.In view of the above, this Court is not inclined to interfere with the judgment of acquittal dated 04.12.2018 in C.C.No.26 of 2015 passed by the learned Judicial Magistrate, Gingee, and the same is hereby affirmed.

13.In the result, this Criminal Appeal stands dismissed.

24.08.2026

Speaking order/Non-speaking order

Index: Yes/No

Neutral Citation: Yes/No

vv2

To

The Judicial Magistrate,
Gingee.



WEB COPY



M.NIRMAL KUMAR, J.

vv2

Crl.A.No.754 of 2022

24.08.2026