



CRL A No. 41 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-08-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL A No. 41 of 2022

R.Maragatham
W/o Ramasamy,
Door No.N28, Alagu Nagar, Trichy Road,
Namakkal Taluk,
Namakkal District.

..Appellant(s)

Vs

A.Selladurai
S/o Arunachalam,
Door No.1/10, Thonnaiya Building,
Keel Kottagiri Kadai Veedhi,
Keel Kottagiri, Nilgiris District.

..Respondent(s)

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C., praying to set aside the order dated 04.09.2019 made in C.C.No.348 of 2015 passed by the learned Judicial Magistrate-I, Namakkal.

For Appellant(s): Mr.D.Manimaran
for M/s S.Menaka

For Respondent(s): Mr.M.Vignesh



Judgment

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This Criminal Appeal has been filed seeking to set aside the order dated 04.09.2019 made in C.C.No.348 of 2015 passed by the learned Judicial Magistrate-I, Namakkal.

2.This Court, on 10.08.2026, had passed the following order:

“The appellant, as complainant, filed a complaint under Section 138 of the Negotiable Instruments Act against the respondent in C.C.No.348 of 2015. The trial Court, by judgment dated 04.09.2019, dismissed the complaint, aggrieved by which the present appeal has been filed.

2. The gist of the complaint is that the complainant and the respondent have known each other for about twenty years, as both hail from Thuraiyur. The respondent, for his urgent financial needs, requested a loan from the appellant, who, on 18.03.2011, had given a loan of Rs.6,00,000/-. The respondent executed an undertaking on a stamp paper agreeing to repay the loan amount with interest and also to pay monthly interest. Thereafter on 29.03.2015, when the appellant demanded repayment of the loan amount, the respondent collected the undertaking and handed over a cheque dated 07.05.2015 drawn on Karur Vysya Bank, for a sum of Rs.6,00,000/-. The said cheque was presented by the appellant with the State Bank of India, Namakkal, on 13.05.2015,



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but it was returned unpaid on 19.05.2015 with the endorsement "Refer to Drawer". The appellant thereafter caused a legal notice on 09.06.2015. The respondent received the same on 12.06.2015 and sent a reply on 29.06.2015.

2.1. The appellant filed the complaint, examined himself as PW1 and examined the Branch Manager of the State Bank of India as PW2 and marked Exs.P1 to P8. The respondent marked Ex.D1, the State Bank of India passbook. On conclusion of the trial, the trial Court dismissed the complaint.

3. The learned counsel for the appellant submitted that the trial Court had misread the evidence and given an erroneous finding that, even according to the appellant, the loan was advanced in the year 2011 and therefore, there was no reason for the respondent to issue a cheque in the year 2015. It was further submitted that the claim was also time barred. The appellant also questioned the respondent's wherewithal. The appellant admitted that 25 cents of tea estate at Kotagiri was leased to the respondent and that the respondent had been making payments to the appellant every 15 days. The appellant denied the same and submitted that the payments were made only to her husband.

3.1. He further submitted that even in the reply notice, Ex.P5, the respondent had admitted their relationship. In this case, the issuance of the cheque and the signature thereon are not denied. The respondent had failed to probabalise the defence, but the trial Court held otherwise.



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4. *The learned counsel for the respondent submitted that, on receipt of the statutory notice, the respondent sent a reply notice giving the details and stating that only a sum of Rs.50,000/- had been borrowed as a loan, which had already been repaid. At that time, the cheque was given as security and was subsequently filled up by the appellant, based on which the present case had been filed. The cheque, Ex.P1 was not issued towards any liability of Rs.6,00,000/-. However, he fairly submitted that the respondent had taken 25 cents of tea estate at Kotagiri on lease and making payments, which were also reflected in the respondent's statement of account. Since the tea estate sold to another person, the respondent showed some resistance and hence, the security cheque given in respect of an earlier transaction had been misused. At this stage, the learned counsel seeks short accommodation to obtain further instructions.*

5. *Post on 18.08.2026."*

3. In continuation and in conjunction with the earlier order passed by this Court on 10.08.2026, the learned counsel for the appellant submitted that the trial Court had misread the evidence and had given a finding in paragraph 11 as though there was a loan transaction of Rs.50,000/- in the year 2011 and the same was repaid in the year 2013 and thereafter the security cheque was misused and presented, which is against law. As per Sections 118 and 139 of the



Negotiable Instruments Act, once the issuance of the cheque, signature, date and amount are not denied, then the statutory presumption comes into play. The Trial Court had given a finding that it is for the complainant to further prove the case, which is not proper. Once statutory presumption is proved, thereafter it is for the accused to probabalise his defence. In this case, the respondent not entered into the witness box, instead, he examined her husband and marked documents and projected that the payments made for the Tea estate and further projected that it is an interest for the loan, which is not proper. Thus, the judgment of the Trial Court is perverse and liable to be set aside.

4.The learned counsel for the respondent submitted that the respondent probabalised his defence by way of cross-examination and by examining the witnesses. He had also sent a reply notice to the statutory notice. The Trial Court considering all these aspects had rightly acquitted the respondent.

5.Considering the submission made on either side and on perusal of the materials, it is seen that the respondent not denied the cheque or the signature found in the cheque/Ex.P1. In the reply notice/Ex.P5, the respondent not denied the issuance of the cheque but gives an explanation that the interest amount has been paid, which is, again without proper reason and substance. In this case



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Ex.D1 is the bank pass book of the respondent, which shows that payments made to the appellant and this payment is not in seriatim and it varies. Further it is admitted by the respondent that he was taking care of the appellant's Tea estate until the appellant sold the property. Thus, these facts were misread by the trial Court and the finding of the Trial Court acquitting the respondent found to be not proper and perverse.

6.In view of the same, the judgment of acquittal rendered by the learned Judicial Magistrate-I, Namakkal in C.C.No.348 of 2015, dated 04.09.2019 is set aside and the case is remitted back to the Trial Court, namely, Judicial Magistrate No.I, Namakkal, who shall reappraise the evidence, rehear the matter and render a fresh judgment in accordance with law. This entire process to be completed within a period of four months from the date of appearance of the parties.

7.Accordingly, the Criminal Appeal is allowed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
RSI



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To

The Judicial Magistrate No.I,
Namakkal.



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M.NIRMAL KUMAR J.

RSI

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