



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 24.02.2022**

**CORAM:**

**THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN**

**Crl.A.(MD).No.88 of 2022**

K.T.Lakshmanan

...Appellant/Complainant

**Vs.**

M.Sathishkumar

...Respondent/Accused

**PRAYER:** Criminal Appeal filed under Section 378(3) of Criminal Procedure Code, pleaded to set-aside the Judgment and Acquittal Order passed by the Learned Judicial Magistrate, Karaikudi Fast track court JM level, Sivagangai dated 17.09.2019 in C.C.No.183 of 2018 and convict the accused for the offence under section 138 of Negotiable Instruments Act.

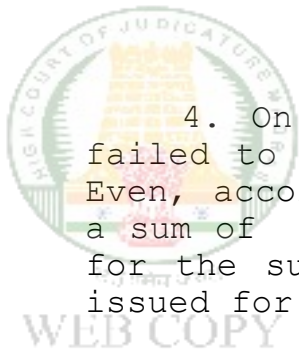
For Appellant : Mr.D.Rameshkumar

**JUDGMENT**

This Criminal Appeal has been filed to set-aside the Judgment and Acquittal Order passed by the learned Judicial Magistrate, Karaikudi Fast track court JM level, Sivagangai dated 17.09.2019 in C.C.No.183 of 2018 and convict the accused for the offence under section 138 of Negotiable Instruments Act.

2. The appellant is the complainant. He lodged complaint as against the respondent for the offences punishable under Section 138 of Negotiable Instruments Act, alleging that, when the respondent was working in software company at Chennai, the father and mother of the respondent borrowed a sum of Rs.20,00,000/- from the appellant in different dates. On the said borrowal, the respondent gave an undertaking to repay the said loan amount and also executed the undertaking deed in favour of the appellant. As per the undertaking deed, the respondent issued 6 cheques in order to discharge part of the loan availed by his parents. All the cheques were presented for collection and they were returned dishonoured for the reason 'funds insufficient'. After issuing statutory notice, the appellant lodged complaint against the respondent.

3. On the side of the appellant, he examined PW-1 and PW-2 and marked exhibits P-1 to P-17. On the side of the respondent, he marked exhibit D-1. On perusal of the oral and material evidence, the Trial Court dismissed the complaint and acquitted the respondent.



4. On perusal of the records, it revealed that the appellant failed to prove that the cheques are issued for legal enforcement. Even, according to the appellant, the respondent's parents borrowed a sum of Rs.20,00,000/-. However, the respondent issued 6 cheques for the sum of Rs.2,00,000/- each. Therefore, those cheques were issued for security purpose and not issued for repaying the loan.

5. That apart, the appellant failed to produce any evidence and also any document to show that the respondent paid interest towards the loan borrowed by his parents. Further, the entire transaction is also barred by limitation. Therefore, the Court below rightly dismissed the complaint and acquitted the respondent for the offence punishable under Section 138 of Negotiable Instruments Act. This Court finds no infirmity or illegality in the order passed by the Court below.

6. Accordingly, this Criminal Appeal is dismissed.

Sd/-

Deputy Registrar (Accounts)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judicial Magistrate,  
Karaikudi Fast track court JM level, Sivagangai.
- 2.The Sessions Judge, Sivagangai.

**Crl.A. (MD) .No.88 of 2022**  
**24.02.2022**

RK(18/03/2022) 2P 3C