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Crl.A.No.1119 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.07.2025

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

Crl.A.No.1119 of 2025

Indrakumar

.....

Appellant

Vs

JansiRani

.....

Respondent

Prayer: Criminal Appeal filed under Section 419 of BNSS, 2023, to call for the records and set aside the judgment dated 03.12.2024 passed in S.T.C.No.1158 of 2023 on the file of the Judicial Magistrate Court No.II, Ponneri.

For Appellant : Mr.M.Mariappan

JUDGMENT

This appeal has been preferred as against the judgment dated 03.12.2024 passed in S.T.C.No.1158 of 2023 on the file of the Judicial Magistrate Court No.II, Ponneri, thereby dismissing the complaint filed for the offence punishable under Section 138 of NI Act and acquitted the respondent.

2. The appellant is the complainant and he lodged a complaint as against



the respondent for the offence punishable under Section 138 of NI Act, alleging that the respondent borrowed a sum of Rs.5,00,000/- on 06.07.2022 and another sum of Rs.5,00,000/- on 06.10.2022. In order to repay the said amount, the respondent issued a cheque for a sum of Rs.10,00,000/- on 05.04.2023 and it was presented for collection. However, the same was returned for the reason “Funds insufficient”. After causing statutory notice, the appellant filed a complaint and it was taken cognizance by the trial Court.

3. Before the trial Court the appellant had examined P.W.1 and marked Exs.P1 to P6. On the side of the respondent she had examined D.W.1 and marked Exs.D1 to D9. On perusal of the oral and documentary evidence, the trial Court acquitted the respondent for the offence punishable under Section 138 of NI Act and dismissed the complaint. Aggrieved by the same, the present Appeal has been preferred.

4. The learned counsel for the appellant submitted that the respondent never denied the issuance of the cheque and the signature found in the cheque. Though the respondent had specifically taken a defense that the cheques were not issued to the appellant, she did not prove the same. Therefore, the respondent failed to rebut the presumption and even the trial Court mechanically



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acquitted the respondent herein.

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5. On perusal of the records it is revealed that on receipt of statutory notice from the appellant the respondent issued reply notice and the same was marked as Ex.P5. On perusal of the same it is revealed that the respondent never borrowed any amount from the appellant. The respondent had subscribed to the chits with her maternal uncle one Pazhani to the tune of Rs.20,00,000/-. At that juncture, the father of the respondent fell ill and as such she requires money. However, the said Pazhani indicated that instead of giving money, he proposes to register his land in the name of the respondent. Since the respondent was not in Tamil Nadu at that point of time, no property was registered in favour of her. The respondent also paid a sum of Rs.10,00,000/- by mortgaging her jewels and also a sum of Rs.4,00,000/- borrowed from her sister-in-law along with the chit amount of Rs.20,00,000/-. Even then, the said Pazhani failed to transfer the land. Further, the said Pazhani threatened the chit amount to be repaid by the respondent and as such on compulsion, she handed over four cheques. It was misused by the appellant and proceedings under Section 138 of NI Act was initiated. Even then the appellant herein failed to prove that the cheque was issued for legally enforceable debts.



6. Even according to the appellant, on the date of borrowal of loan, i.e. on 06.07.2022 and 06.10.2022, to the tune of Rs.10,00,000/-. The appellant did not receive any document as security that too for a huge sum of Rs.10,00,000/-. Further, he also admitted that there was chit transaction between the appellant and the respondent and it was completely suppressed by the appellant and filed the complaint. Therefore, the respondent categorically rebutted the presumption and the trial Court rightly acquitted the respondent and this Court finds no illegality or infirmity in the order passed by the trial Court.

7. Accordingly this Criminal Appeal is dismissed.

31.07.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
bkn

To:

The Judicial Magistrate Court No.II, Ponneri.



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G.K.ILANTHIRAIYAN, J.

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