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Crl.A.No.833 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.07.2025

CORAM

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

Crl.A.No.833 of 2025

Bansidhar & Sons (HUF),
Rep. by its Power of Attorney
Vinod Kumar
145-A, Block
Shivalaya Building, 3rd Floor,
Ethiraj Salai, Chennai – 600 105.

.....

Appellant

Vs

1. John Zachariah
2. Mathew John

Amukutty John (Died)

.....

Respondents

Prayer: Criminal Appeal filed under Section 419 of the Bharatiya
Nagarik Suraksha Sanhita, 2023, to set aside the order dated 18.11.2024
passed in C.C.No.4493 of 2016 and C.C.No.465 of 2012 on the file of the
Fast Track Court No.II, Metropolitan Magistrate Court, Egmore at
Allikulam, Chennai.

For Appellant : Mr.A.Rajaraman

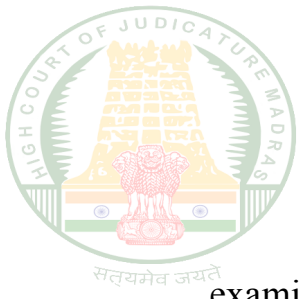
**JUDGMENT**

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This Criminal Appeal has been preferred against the Judgment dated 18.11.2024 passed in C.C.No.4493 of 2016 in C.C.No.465 of 2012 by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore @ Allikulam, Chennai, thereby dismissing the complaint filed by the appellant and acquitted the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act.

2. The appellant is the complainant and the respondent is the accused in the complaint filed for the offence punishable under Section 138 of the Negotiable Instruments Act. It is the case of the appellant that the respondent borrowed a huge sum and also executed a promissory note for a sum of Rs.22,00,000/-. In order to repay the said amount, the respondent issued a cheque. When the said cheque was presented for collection, it was returned dishonoured with the endorsement “Funds Insufficient”. After causing a statutory notice, the appellant filed a complaint and the same has been taken cognizance by the Trial Court.

3. On the side of the appellant, P.W.1 was examined and Exs.P1 to P4 were marked. On the side of the accused, no witnesses were



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examined and no documents were marked. On perusal of the oral and documentary evidence, the Trial Court found the respondent not guilty of the offence punishable under Section 138 of Negotiable Instruments Act and acquitted him. Aggrieved by the same, the present Criminal Appeal has been filed.

4. The learned counsel appearing for the appellant submitted that the respondent never denied his signature found in the cheque. Therefore, the appellant had discharged the initial burden as contemplated under Section 138 of the Negotiable Instruments Act. In fact, the respondent neither issued any reply nor examined any witnesses to rebut the presumption. Even the Trial Court, without appreciating the evidence on record, has mechanically acquitted the respondent.

5. The specific defence taken by the respondent was that he borrowed a sum of Rs.1,10,00,000/- from the appellant. The entire amount had already been repaid by the respondent. In fact, one of the cheque was dishonored and already the appellant filed a complaint, in which there was settlement before the Trial Court. However, the

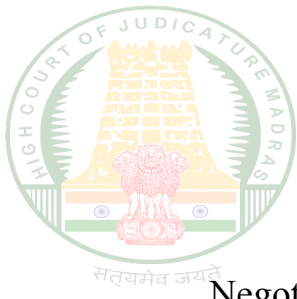


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cheques, which were issued for security purpose, were misused by the appellant, who has now initiated the proceedings under Section 138 of the Negotiable Instruments Act.

6. Heard the learned counsel appearing for the appellant and perused the materials available on record.

7. The appellant was examined as P.W.1. A perusal of the evidence of P.W.1 reveals that the respondent borrowed a sum of Rs.1,10,00,000/- and the same was subsequently repaid. Further, the appellant also categorically admitted that he had already been initiated the proceedings under Section 138 of the Negotiable Instruments Act, in which there was a settlement between the parties. Therefore, the respondent had categorically rebutted the presumption under Sections 118 and 139 of the Negotiable Instruments Act. Further, the appellant did not disclose the specific date on which the alleged loan was advanced, nor did he produce any document to substantiate such a transaction. No prudent person would lend such a huge amount without any security. Moreover, after initiation of the proceedings under Section 138 of the



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Negotiable Instruments Act for dishonour of the cheque, no prudent person would lend a further loan to the very same accused. Therefore, the appellant failed to prove that the cheque was issued for any legally enforceable debt. Hence, the Trial Court rightly dismissed the complaint and acquitted the respondent.

8. In view of the above, this Court finds no infirmity or illegality in the Judgment dated 18.11.2024 passed in C.C.No.4493 of 2016 and C.C.No.465 of 2012 by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore at Allikulam, Chennai. Accordingly, this Criminal Appeal stands dismissed.

09.07.2025

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

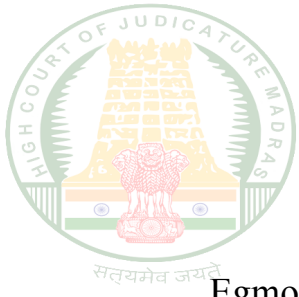
G.K.ILANTHIRAIYAN, J.

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To

The Metropolitan Magistrate,
Fast Track Court No.II,

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Egmore at Allikulam,
Chennai.

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