



Crl.A.No.663 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 19.06.2025

CORAM

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

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S.Saravanan Appellant

Vs

N.Elavarasan Respondent

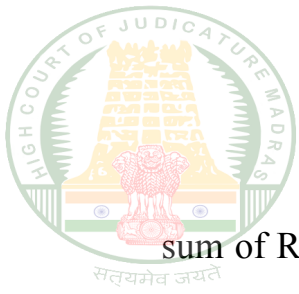
Prayer: Criminal Appeal filed under Section 419 of BNSS, 2023 to set aside the judgment dated 22.11.2024 in S.T.C.No.101 of 2020 on the file of the Judicial Magistrate No.II, Walajapet.

For Appellant : Mr.S.Salai Gavana Geethan

JUDGMENT

This Criminal Appeal has been preferred as against the order dated 22.11.2024 in S.T.C.No.101 of 2020 on the file of the Judicial Magistrate No.II, Walajapet, thereby acquitting the respondent for the offence under Section 138 NI Act.

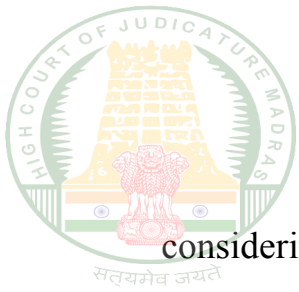
2. The appellant has filed a complaint as against the respondent for the offence under Section 138 of NI Act alleging that the respondent borrowed a



sum of Rs.25,00,000/- as loan on 26.12.2018 and agreed to pay interest @ 24% per annum. Towards repayment of the said amount, the respondent had issued cheque for a sum of Rs.25,00,000/- and the same was presented for collection. However, it was returned dishonoured for the reason “funds insufficient”. After causing statutory notice, the appellant filed the complaint.

3. The appellant was examined as P.W.1 and marked Exs.P1 to P6. On the side of the respondent no one was examined and no documents were marked. On perusal of the oral and documentary evidence, the trial Court acquitted the respondent for the offence punishable under Section 138 of NI Act.

4. The learned counsel for the appellant submitted that the on the date of borrowal of the amount, the respondent had also executed a pro-note. On the strength of the pronote, the appellant filed a suit as against the respondent for recovery of money and the same was also decreed in O.S.No.53/2020 by a judgment and decree dated 08.06.2022 on the file of the II Additional District Judge, Vellore, Ranipet. Therefore, the original pronote was marked before the Civil Court and a certificate copy of the same was marked before the trial Court for the offence punishable under Section 138 NI Act. However, without



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considering the same, the trial Court mechanically acquitted the respondent.

Further, he submitted that the signature in the cheque as well as the issuance of the same were not denied by the respondent. Though the petitioner discharged his initial burden as contemplated under Section 139 of NI Act and the respondent failed to rebut the presumption, the trial Court acquitted the respondent for the reason that the appellant has no income to lend such a huge amount of Rs.25,00,000/-.

5. On perusal of the records it is revealed that except the cheque and pronote, the appellant failed to prove his income to lend such a huge amount of Rs.25,00,000/-. The appellant admitted that he is earning only Rs.20,000/- as his monthly salary. Further, the specific stand of the respondent was that the cheque was issued for security purpose and no consideration was passed to the respondent. Therefore, the respondent categorically rebutted the presumption by cross-examining P.W.1. Even then the appellant failed to prove the loan amount which was allegedly lent to the respondent by any evidence. Therefore, the trial Court has rightly acquitted the respondent and this Court finds no illegality or infirmity in the order passed by the trial Court.

6. Accordingly, this Criminal Appeal is dismissed. No costs.



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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Interned : Yes
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To
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1.The Judicial Magistrate No.II, Walajapet.



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G.K.ILANTHIRAIYAN, J.

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