



Crl.A.No.963 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2025

CORAM :

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

Crl.A.No.963 of 2025

M.Saravanan

... Appellant

Vs

G.Saravanakumar

... Respondent

Prayer: Criminal Appeal filed under Section 419 of B.N.S.S., pleaded to set aside the judgment made in S.T.C.No.226 of 2022 on the file of learned Judicial Magistrate (FTC), Tiruchengode dated 19.03.2024 by acquitting the respondent, allow this appeal and thereby convict the accused.

For Appellant : M/s.K.S.Sabarirama

JUDGMENT

This Criminal Appeal has been preferred as against the judgment dated 19.03.2024 passed by the learned Judicial Magistrate (FTC), Tiruchengode in S.T.C.No.226 of 2022, thereby acquitting the respondent for the offence punishable u/s 138 of Negotiable Instruments Act (in short 'the NI Act').



Crl.A.No.963 of 2025

WEB COPY

2. The appellant has lodged a complaint against the respondent for the offence punishable u/s 138 of the NI Act alleging that towards his liability, the respondent had issued a cheque bearing No.000013 dated 20.09.2022 drawn on Kotak Mahindra Bank, Sankari Branch in favour of the appellant for a sum of Rs.99,800/-, which was presented for collection, however the same was returned dishonoured for the reason “Payment stopped by the Drawer”. After causing the statutory notice, the appellant filed a complaint u/s 138 of the NI Act.

3. On the side of the appellant, he examined himself as P.W.1 and Ex.P1 to Ex.P5 were marked. On the side of the respondent, no one was examined and Ex.D1 to Ex.D5 were marked. On perusal of the oral and documentary evidence, the Trial Court found the respondent not guilty and acquitted him of the charges u/s 138 of NI Act. Aggrieved by the same, the present appeal is filed.

4. The learned counsel for the appellant would submit that the respondent did not deny the issuance of cheque and the signature found



Crl.A.No.963 of 2025

in the cheque. Therefore, the appellant had discharged his initial burden as contemplated u/s 138 of NI Act, however, the respondent failed to rebut the presumption. Even then, the Trial Court mechanically acquitted the respondent, which is *per se* unsustainable and the same is liable to be set aside.

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

6. On a perusal of records, it was revealed that according to the appellant, on verification of accounts, the respondent was liable to pay Rs.4,50,000/-, for which, he issued a cheque on 19.09.2022, which was presented for collection and the same was returned dishonoured. It is the specific case of the respondent that the appellant lodged a complaint before the law enforcing agency and the respondent was called for enquiry. In the police station, under coercion, the cheque in question was obtained from the respondent on 18.07.2022 itself. Therefore, the respondent was given requisition for payment stoppage. In order to prove the fact that the cheque was obtained under coercion, the respondent marked Ex.D.1 to Ex.D3, which are the copies of the complaint made by



Crl.A.No.963 of 2025

WEB COPY

the appellant before the law enforcing agency on 15.07.2022 against the respondent, CSR issue in respect of the same and the appellant's statement dated 29.08.2022 given during police enquiry. From a perusal of the above documents, the stand of the appellant that the cheque was issued by the respondent on 19.09.2022 is totally unbelievable and the same cannot be accepted. Therefore, it is proved that the respondent had not issued the cheque to the appellant on 19.09.2022 as alleged by the appellant. Further, it is seen that the appellant had misused the cheque, which was obtained coercively before the law enforcing agency for initiation of proceedings u/s 138 of NI Act. Hence, the respondent had categorically rebutted the presumption arise u/s 118 and 139 of NI Act. However, the appellant failed to prove that the cheque was issued for a legally enforceable debt. Therefore, no offence u/s 138 of NI Act is made out against the respondent. Hence, the Trial Court rightly acquitted the respondent for the offence punishable u/s 138 of NI Act.

7. In view of the above, this Court finds no infirmity or illegality in the Judgment dated 19.03.2024 made in S.T.C.No.226 of 2022 on the file of the learned Judicial Magistrate (FTC), Tiruchengode.



Crl.A.No.963 of 2025

WEB COPY 8. Accordingly, this Criminal Appeal stands dismissed.

16.07.2025

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

To

The Judicial Magistrate (FTC), Tiruchengode.



WEB COPY



Crl.A.No.963 of 2025

G.K.ILANTHIRAIYAN, J.

sp

Crl.A.No.963 of 2025

16.07.2025