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Crl.A.No.956 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2025

CORAM:

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

Crl.A.No.956 of 2025

K.Mohamad Gous

....

Appellant

Vs

F.Riyasudeen

.....

Respondent

PRAYER: Criminal Appeal is filed under Section 419 of Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the Judgment made in S.T.C.No.11365 of 2023 by the learned Judicial Magistrate-I, Salem dated 28.11.2024.

For Appellant

: Mr.S.N.Arunkumar

J U D G M E N T

This Criminal Appeal has been preferred as against the judgment dated 28.11.2024 passed in S.T.C.No.11365 of 2023 on the file of the learned Judicial Magistrate-I, Salem thereby acquitting the respondent for the offences punishable under Section 138 of Negotiable Instruments Act.

2. The appellant filed a complaint as against the respondent for the offences punishable under Section 138 of Negotiable Instruments Act



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alleging that the respondent borrowed a sum of Rs.50,000/-. In order to repay the said amount, the respondent issued a cheque. It was presented for collection however, the same was returned dishonored for the reason “Account was closed”. After issuing show cause notice, the appellant lodged a complaint under Section 138 of the Act as against the respondent and the same was taken cognizance by the trial court.

3. Before the trial court, the appellant was examined as P.W.1 and marked Ex.P1 to Ex.P5. On the side of the Respondent, no one were examined and no documents were marked before the trial court. On perusal of the oral and documentary evidences, the trial court found the respondent not guilty for the offences under Section 138 of Negotiable Instruments Act. Aggrieved by the same, the present Appeal has been filed.

4. The learned counsel appearing for the appellant would submit that the respondent did not deny the signature found in the cheque and also the issuance of cheque. Further, the respondent failed to rebut the presumption and even then the trial court acquitted the respondent.



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5. A perusal of the records reveals that the appellant was examined as P.W.1. He categorically admitted that he paid a sum of Rs.30,000/- by way of cash that too 60 notes of Rs.500/- which comes around only Rs.30,000/-. Therefore, the appellant failed to prove that the cheque was issued only for legally enforceable debt to the tune of Rs.50,000/-. That apart, the specific stand of the respondent was that the cheque was issued for security purpose at the time of borrowal to the tune of Rs.50,000/-. After that cheque was not issued and it was misused.

6. In view of the above, this Court finds no infirmity or illegality in the judgment dated 28.11.2024 passed in S.T.C.No.11365 of 2023 on the file of the learned Judicial Magistrate-I, Salem.

7. Accordingly, the Criminal Appeal stands dismissed.

17.07.2025

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

Nhs

G.K.ILANTHIRAIYAN, J.



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To
The learned Judicial Magistrate-I,
Salem.

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