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Crl.A.No.913 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.07.2025

CORAM:

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

Crl.A.No.913 of 2024

P.Balaji

..... Appellant

Vs

Diana Sherley Sinclair

..... Respondent

Prayer: Criminal Appeal is filed under Section 419 of Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records relating to the judgment dated 04.12.2024 made in C.C.No.290 of 2020 on the file of the Ld.Judicial Magistrate-I (Fast Track Court-FAC) Coimbatore and set aside the same by allowing this Criminal Appeal.

For Appellant : Mr.R.Subramanian

J U D G M E N T

This Criminal Appeal has been preferred as against the Judgment of acquittal passed in C.C.No.290 of 2020 dated 04.12.2024 on the file of the Judicial Magistrate-I, Fast Track Court FAC Coimbatore, thereby acquitting the



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respondent for the offences under Section 138 of Negotiable Instruments Act.

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2. The Appellant had lodged a complaint against the respondent for the offences punishable under Section 138 of Negotiable Instruments Act alleging that the respondent had borrowed a sum of Rs.2,00,000/- from the Appellant. In order to repay the said amount, the respondent issued a cheque and the same was presented for collection. It was returned dishonored for the reason “Funds Insufficient”. After issuing show cause notice, the Appellant lodged a complaint under Section 138 of the Act and the same was taken cognizance by the trial court. On the side of the Appellant, they examined P.W.1 and marked Ex.P1 to Ex.P6. On the side of the Accused, no one was examined and no documents were marked.

3. On perusal of the oral and documentary evidences, the trial court found the respondent not guilty for the offence under Section 138 of Negotiable Instruments Act. Aggrieved by the same, the present Appeal has been filed.

4. The learned counsel for the Appellant would submit that the



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respondent had borrowed a sum of Rs.2,00,000/- and another sum of Rs.3,20,000/-. The Trial court having been confused with the proof affidavit has acquitted the respondent herein. Further, the respondent did not deny the signature and also the issuance of cheque. Therefore, the respondent had discharged his initial burden as contemplated under Section 138 of Negotiable Instruments Act. Though the respondent failed to rebut the presumption the trial court mechanically acquitted the respondent herein.

5. A perusal of the materials on record, reveals that the respondent had taken specific defence that the appellant is superior and colleague of the respondent in a Company named “Scribe EMR” and that he had misused the blank signed paper and issued a reply notice dated 13.02.2019 which was marked as Ex.P6. Though the Appellant had stated in his complaint that the loan was borrowed for business necessity, in his cross examination had stated that the respondent is also working with the appellant in the same Company. Therefore, the business necessity does not arises for the respondent to borrow such amount. Though the appellant had taken specific stand that on two occasions, the respondent borrowed a sum of Rs.2,00,000/- and Rs.3,20,000/-, he did not even whisper about another borrowal in both the complaints. Further,



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though the respondent had borrowed a loan for the interest at the rate of 18% p.a, the cheque was not issued for any interest. Therefore, the respondent categorically rebutted the presumption and even then the appellant failed to prove that the cheques were issued for legally enforceable debt. Therefore, this alleged borrowal itself is not proved by the appellant herein. Hence, the trial court rightly acquitted the respondent herein.

6. In view of the above, this Court finds no infirmity or illegality in the order dated 04.12.2024 passed by the learned Judicial Magistrate, Fast Track Court No.I, Coimbatore in C.C.No.290 of 2020.

7. In the result, the Criminal Appeal is dismissed.

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Index : Yes/No

Internet : Yes/No

Speaking/Non Speaking order

Nhs

To

The learned Judicial Magistrate, Fast Track Court-I,
Coimbatore.



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G.K.ILANTHIRAIYAN. J.

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