



Crl.A.No.1004 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2025

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

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Muthiah
S/O.Kandasamy,
D.No.37-F2,
Lrc Puthu Gandhi Nagar,
3rd House,
Nadu Theru,
Paithur Road,
Attur Taluk,
Salem District.

...Appellant

Vs.

Mahameru
S/O.Subramani,
Near Sengamuniappan Kovil,



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Kandasamy Pudur West,
Arasanatham Post,
Attur Taluk,
Salem District.

... Respondent

PRAYER: Criminal Appeal filed under Section 419 BNSS, 2023, to allow the above Criminal Appeal by setting aside the judgment dated 31.05.2024 passed in STC No.54 of 2022 on the file of the Judicial Magistrate Fast Track Court, Attur, acquitting the respondent herein from the offence under Section 138 of Negotiable Instruments Act.

For Appellant : Mr.S.Sriram

JUDGMENT



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This Criminal Appeal has been filed as against the judgment dated 31.05.2024 passed in STC No.54 of 2022 on the file of the Judicial Magistrate Fast Track Court, Attur, thereby acquitting the respondent for the offence 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 NI Act alleging that on various occasions from October, 2019, the respondent borrowed a sum of Rs.6,90,000/-. In order to repay the said amount, he issued a cheque and the same was presented for collection. However, it was returned dishonoured for the reason “Funds insufficient”. After causing statutory notice, the appellant filed a complaint and it has been taken cognizance by the trial Court in STC No.54 of 2022.

3. On the side of the appellant he had examined P.W.1 and Exs.P1 to P5 were marked. 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. Aggrieved over the same, the present Appeal has been filed.



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4. The learned counsel for the appellant submitted that the respondent had categorically admitted in his cross-examination that through bank transaction the loan amount was duly received by him from the appellant. However, the respondent denied that those transactions are not related to the present cheque. The respondent also did not deny the signature found in the cheque and also the issuance of cheque. Even then, the trial Court without considering the same, has acquitted the respondent.

5. The specific defense of the respondent was that he borrowed a sum of Rs.2,00,000 from one Manivarma for which he had issued two cheques for security purpose. One cheque was handed over to the complainant and it was presented for collection and proceedings under Section 138 of NI Act was initiated. The respondent never borrowed any amount from the appellant as alleged by the appellant. Further, on perusal of cross-examination of P.W.1 also revealed that he had no knowledge of any transactions done in favour of the respondent and also on what date he had lent the money. Even according to the appellant, the money was lent from the year 2019 and he did not even specifically mentioned the date of borrowal. That apart, the



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appellant failed to prove the borrowal of the loan by the respondent by any piece of material evidence. Therefore, the respondent had categorically rebutted the presumption and trial Court has rightly acquitted the respondent. This Court finds no illegality or infirmity in the order passed by the trial Court.

6. Accordingly, this Criminal Appeal is dismissed.

18.07.2025

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

To
1. Judicial Magistrate Fast Track Court, Attur.



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