



Crl.A.No.897 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2025

CORAM

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

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R.Muthu Krishnan

.....

Appellant

Vs

Aruna

.....

Respondent

PRAYER : Criminal Appeal has been filed under Section 378(4) of the Criminal Procedure Code, praying to set aside the judgement of the learned XIX Metropolitan Magistrate, Egmore @ Allikulam, Chennai, dated 20.12.2024 passed in STC No.528 of 2024, acquitting the accused and consequently punish the accused with the maximum punishment for the offence committed under Section 138 of Negotiable Instruments Act, 1881, by allowing this appeal.

For Appellant : Mr.K.Vijyalakshmi

For Respondent : Mr.K.T.S.Sivakumar

JUDGMENT

This Criminal Appeal has been filed challenging the Judgment dated 20.12.2024 passed in STC No.528 of 2024 by the learned XIX Metropolitan Magistrate, Egmore @ Allikulam, Chennai, thereby dismissing the complaint filed by the appellant and acquitted the respondent for the offence punishable



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under Section 138 of the Negotiable Instruments Act.

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2. The appellant, who is the complainant, lodged a complaint against the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act. It is alleged that the respondent had borrowed a loan from the appellant and in order to repay the said amount, issued a cheque. When the said cheque was presented for collection, it was returned dishonoured with the endorsement “Insufficient Funds”. After causing a statutory notice, the appellant filed a complaint, which was taken cognizance by the Trial Court in STC No.528 of 2024.

3. On the side of the appellant, he examined himself as P.W.1 and marked Ex.P1 to P5. On the side of the respondent, she examined herself as D.W.1 and marked Ex.D1. On perusal of the oral and documentary evidence, the Trial Court found the respondent not guilty of the offence punishable under Section 138 of the Negotiable Instruments Act and acquitted her. Aggrieved by the same, the present Criminal Appeal has been filed.

4. The learned counsel appearing for the appellant submitted that the respondent never denied the issuance of the cheque and the signature found therein. In fact, after issuance of the statutory notice, the respondent did not



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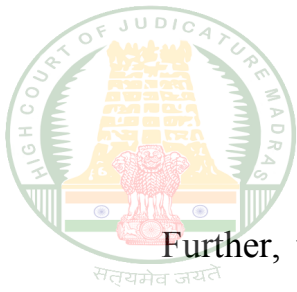
send any reply. Therefore, the appellant had discharged the initial burden as

contemplated under Section 138 of the Negotiable Instruments Act. Though the respondent failed to rebut the statutory presumption, the Trial Court mechanically acquitted the respondent.

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

6. A perusal of the records reveals that the respondent was examined as D.W.1. The specific defence taken was that the cheque had been issued only for security purposes, since the appellant, being the Assistant Manager of the bank, had arranged a personal loan in favour of the respondent. Thereafter, the appellant misused the cheque as if the respondent borrowed the loan from him and presented it for collection.

7. A perusal of the statutory notice and the complaint filed by the appellant reveals that the appellant had not even whispered about the alleged loan said to have been borrowed by the respondent from him. That apart, it is an admitted fact that the appellant and the respondent are close relatives.



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Further, the appellant, being the Manager of the bank, has not produced any

material to establish the alleged lending of the amount to the respondent.

Therefore, the respondent categorically rebutted the presumption and, as such, the Trial Court rightly acquitted the respondent.

8. In view of the above, this Court finds no infirmity or illegality in the Judgment dated 20.12.2024 passed in STC No.528 of 2024 by the learned XIX Metropolitan Magistrate, Egmore @ Allikulam, Chennai. Accordingly, this Criminal Appeal stands dismissed.

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Speaking order/Non-speaking order

Index :Yes/No

Internet :Yes/No

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To

The XIX Metropolitan Magistrate,
Egmore @ Allikulam, Chennai

G.K.ILANTHIRAIYAN, J.

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