



Crl.A.No.346 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 21.07.2025

CORAM :

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.A.No.346 of 2015

M/s. JMR Finance,
Represented by its Power Agent
Mr.S.Kumar
No.44/12, Kothandaraman Lane,
Old Washermenpet,
Chennai – 600 021.

...Appellant/Complainant

vs.

1. Kanmani Service Station,
No:1, Syndhams Road,
Choolai, Chennai – 600 021.

2. Mr.A.R.Rosekumar
Partner,
M/s. Kanmani Service Station,
No.1, Syndhams Road,
Choolai, Chennai – 600 012.

...Respondent/Accused



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Criminal Appeal filed under Section 378(4) of Criminal Procedure Code praying to call for the records on Court below and set aside the acquittal passed in C.C.No.2031/2012 dated 01.04.2015 on the appeal of Fast Track Court – IV, George Town, Chennai – 600 001.

For Appellant : Mr.Karthick
Legal Aid Counsel

For Respondent : Mr.P.K.Rajesh Praveen Kumar

JUDGMENT

The appeal challenges the Judgment of acquittal passed in C.C.No.2031 of 2012 dated 01.04.2015 on the file of the learned Metropolitan Magistrate, Fast Track Court – IV, George Town, Chennai – 600 001.

2. It is the case of the appellant/complainant that the first respondent is a partnership firm and the second respondent is its partner; that the second respondent had borrowed a loan of Rs.3,00,000/- (Rupees Three Lakhs only) in cash from the appellant and executed a promissory note dated 18.10.2011



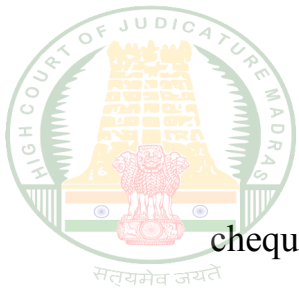
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in favour of the appellant agreeing to repay the said sum with interest @ 18% per annum; that thereafter towards discharge of the loan, the respondent had issued two cheques each for Rs.1,60,000/- (Rupees One Lakh only) dated 26.03.2012; that when the said cheques were presented for collection, it was returned with an endorsement “Funds Insufficient”; and that in spite of statutory notice, the second respondent/accused did not make any payment and thus he committed the offence under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as NI Act).

3. The appellant, a proprietary concern whose proprietor is one JM Ravikumar examined his Power Agent as P.W.1 and marked Exs.P1 to P10. The respondents examined one Mr.M.Ravichandran, who is said to have signed as a witness in the promissory note as D.W.1 and the passbook issued by the appellant as Ex.D1.

4. The trial Court found that the appellant had not established that the



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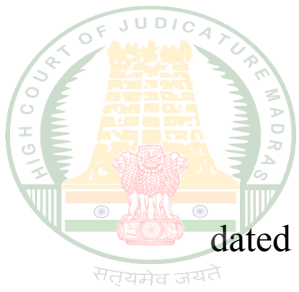
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cheques were issued for legally enforceable debt or liability and acquitted the respondents for the offence under Section 138 of the NI Act.

5. Since there was no representation for the appellant, on 18.07.2025 this Court appointed Mr.Karthick as Legal Aid Counsel to represent the appellant. Even today, there was no representation for the appellant.

6. Mr.Karthick, learned Legal Aid Counsel for the appellant/complainant, submitted that the trial Court erred in relying upon a document filed by the respondents/accused in respect of another transaction to disbelieve the case of the appellant; and that the respondents had not rebutted the statutory presumption under Section 139 of the NI Act and hence, submitted that the Judgment has to be set aside.

7. Mr.P.K.Rajesh Praveen Kumar, the learned counsel for the respondents, *per contra*, submitted that the respondents had only one loan transaction with the appellant; that they had taken a loan of Rs.4,00,000/- (Rupees Four Lakhs only); that they repaid Rs.2,30,000/- (Rupees Two Lakhs Thirty Thousand only); that they had not issued any promissory note

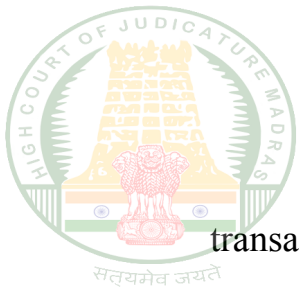


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dated 18.10.2011, agreeing to repay Rs.3,00,000/-(Rupees Three Lakhs only); that Ex.D1, along with the deposition of D.W.1, would clearly show that the respondents had rebutted the statutory presumption; and that the trial Court had rightly acquitted the respondents and prayed for dismissal of the appeal.

8. According to P.W.1, the appellant is a proprietary concern, and its proprietor is one Mr.J.M.Ravikumar. P.W.1 is the power of attorney agent of the said Mr. J.M. Ravikumar. P.W.1, in his cross-examination, to a specific question, has stated that the respondents had borrowed a sum of Rs.3,00,000/- (Rupees Three Lakhs only) from the appellant and there were no other transactions between the appellant and the respondents. P.W.1 further admitted that he was not aware of whether the witnesses had signed in the presence of the respondents in Ex. P2, the promissory note filed by the appellant.

9. It is the specific case of the respondents that they had only one



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transaction with the appellant and they had borrowed a loan of Rs.4,00,000/- (Rupees Four Lakhs only) on 05.03.2011 and had repaid a sum of Rs.2,30,000/- (Rupees Two Lakhs Thirty Thousand only) on various dates, and they had never borrowed a sum of Rs.3,00,000/- on 18.10.2011 as claimed by the appellant. The respondents had produced the passbook of the appellant's concern, which indicates that the respondents had borrowed a sum of Rs.4,00,000/- and had repaid a sum of Rs.2,30,000/-. The said passbook was marked as Ex.D1.

10. P.W.1 had admitted that the said passbook was issued by the said concern. He thereafter admitted that he was not aware whether the respondents had borrowed Rs.4,00,000/- from the appellant's concern and had repaid Rs.2,30,000/-. The respondents had also suggested in the cross-examination that one Parasakthi was working as an employee of the appellant's concern and he misused the cheques issued as security for the said loan; and that the said Parasakthi had also filed a false complaint against the second respondent's wife.

11. The respondent examined D.W.1, who said to have signed as a



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witness in the promissory note, Ex. P2, marked on the side of the appellant.

D.W.1 had deposed that the respondents had only borrowed Rs.4,00,000/- from the appellant and at the time of obtaining the loan, the second respondent and his wife had issued three cheques as security and signed several blank papers; and that the respondents had repaid a sum of Rs.2,30,000/-.

(b) He would further state that though he signed as a witness in Ex. P2, the promissory note, the contents were filled after obtaining the signature, and he recollects that the respondents had only one transaction with the appellant, namely the receipt of the loan of Rs.4,00,000/-.

12. Taking into consideration the above evidence, the trial Court found that P.W.1's evidence that the respondents had obtained Rs.3,00,000/- as a loan and did not repay any money is contrary to the document and the evidence adduced on the side of the respondents. Further, P.W.1 was not aware of the transaction that was admitted by the respondents. In the complaint, the appellant had not referred to the loan of Rs.4,00,000/- said to have been taken by the respondents and about the repayment made by the



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respondents. That apart, it is not known why the said JM Ravikumar, the Proprietor, who was aware of the transactions did not examine himself.

13. The trial Court therefore, found that the respondents had rebutted the statutory presumption and the appellant had suppressed several vital facts in his complaint. The trial Court also found that the appellant had not discharged the burden of proving the case that the respondents were due and liable to pay the amount to the appellant.

14. This Court finds no infirmity in the Judgment of the trial Court. The reasons given by the trial Court are in accordance with law. Hence, this Court is not inclined to interfere with the Judgment passed by the learned Metropolitan Magistrate, Fast Track Court – IV, George Town, Chennai – 600 001, in [C.C.No.2031 of 2012](#) dated 01.04.2015.

15. Accordingly, the appeal is dismissed.



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16. The High Court Legal Services Committee, Chennai, is directed to pay the scheduled fee to Mr. Karthick, the learned legal aid counsel, who appeared for the appellant.

21.07.2025

Neutral citation : yes/no
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SUNDER MOHAN,J.

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