



Crl.A.No.844 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 11.07.2025

CORAM

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

Crl.A.No.844 of 2025

Rajakumar

..... Appellant

Vs

Jayalakshmi

..... Respondent

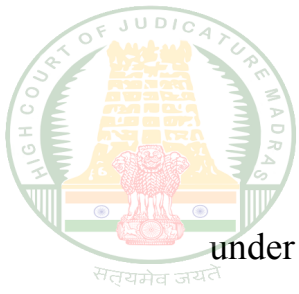
Prayer: Criminal Appeal filed under Section 419 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records in C.C.No.2798 of 2018 on the file of the learned Metropolitan Magistrate, Fast Track Court No.II at Egmore, Allikulam, Chennai and set aside the judgment of acquittal passed in C.C.No.2798 of 2018 by the learned Magistrate Fast Track Court No.II, Egmore, Allikulam, Chennai, dated 12.09.2024.

For Appellant : Mr.M.Anandaraj

For Respondent : Mr.N.Rajesh Kannan

JUDGMENT

This Criminal Appeal has been filed challenging the order dated 12.09.2024 passed in C.C.No.2798 of 2018 by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Allikulam, Chennai, thereby acquitted the respondent for the offence punishable



under Section 138 of the Negotiable Instruments Act.

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2. The appellant/complainant lodged a complaint against the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act, alleging that the respondent/accused had borrowed a loan and in order to repay the said loan, the respondent issued a cheque for a sum of Rs.5,18,000/-. When the said cheque was presented for collection, it was dishonored with the endorsement “Funds Insufficient”. After causing a statutory notice, the appellant filed a complaint under Section 138 of the Negotiable Instruments Act.

3. On the side of the appellant, P.W.1 was examined and Exs.P1 to P6 were marked. On the side of the respondent, D.W.1 was examined and Exs.D1 to D4 were marked. 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 accordingly acquitted her.

4. The learned counsel appearing for the appellant would



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submit that, after receipt of the statutory notice, the respondent issued a reply notice, which was marked as Ex.P5. The respondent had taken three inconsistent defences. At one stage, it was stated that the amount was borrowed from the appellant's wife ; in the reply notice, it was stated that the loan was borrowed from the appellant ; and during the cross examination of P.W.1, it was suggested that the amount was borrowed from the mother-in-law of the appellant. Thus, the respondent had taken three different stands and failed to rebut the presumption.

5. That apart, the appellant lodged the complaint against the respondent not merely in respect of the loan transaction, but on account of the respondent having committed default in payment of both interest and principal for a period of two months, which resulted in a quarrel between them. The respondent did not deny either the issuance of the cheque and the signature found therein. Hence, the appellant had discharged his initial burden as contemplated under Section 138 of the Negotiable Instruments Act. Though the appellant filed an application seeking permission to cross examine D.W.1, no order was passed in the said application and on the very same day, the Trial Court proceeded to



pronounce the judgment.

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6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. A perusal of the records reveals that the respondent had taken a specific stand that, though she had borrowed money from the appellant, subsequently she repaid the entire amount along with interest totalling a sum of Rs.5,00,000/-. The cheque was issued only for security purpose at the time of borrowing the loan. Even after repayment of the entire amount, the said cheque was not returned to the respondent. Consequently, the respondent also lodged a complaint before the Inspector of Police, A1 Sembiam Police Station and on receipt of the said complaint, an enquiry was conducted. Even thereafter, the appellant presented the cheque for collection. Therefore, the respondent had categorically rebutted the presumption arising under Section 118 and 139 of the Negotiable Instruments Act. In view of the same, non-cross examination of D.W.1 is not fatal to the case of the respondent herein. Hence, the Trial Court rightly dismissed the complaint and acquitted the



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respondent.

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8. In view of the above, this Court finds no infirmity or illegality in the order dated 12.09.2024 passed in C.C.No.2798 of 2018 by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Allikulam, Chennai. Accordingly, this Criminal Appeal stands dismissed.

11.07.2025

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

To

The Metropolitan Magistrate,
Fast Track Court No.II, Egmore,
Allikulam, Chennai.



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G.K.ILANTHIRAIYAN, J.

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