



CrI.A.No.989 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2025

CORAM:

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

CrI.A.No.989 of 2025

Balasubramanian

...Appellant

Vs.

Anbarasan

... Respondent

PRAYER: Criminal Appeal filed under Section 378 of Cr.P.C. to set aside the order of acquittal in C.C.No.452 of 2018 on the file of the Court of Judicial Magistrate No.II, Pollachi dated 06.02.2025.

For Appellant : Mr.A.Esakupandy

For Respondent : Mr.R.Murugabharathi

JUDGMENT



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This Criminal Appeal has been filed as against the order dated 06.02.2025 made in C.C.No.452 of 2018 on the file of the Court of Judicial Magistrate No.II, Pollachi, thereby acquitting the respondent for the offences punishable under Section 138 of NI Act.

2. The appellant is the complainant and the respondent is the accused in the complaint lodged by the appellant for the offence punishable under Section 138 of NI Act, alleging that the respondent borrowed a sum of Rs.2,40,000/- from the appellant on 13.06.2018. In order to repay the said amount, the respondent had issued a cheque on 30.07.2018. It was presented for collection and the same was returned dishonoured for the reason “Funds insufficient”. After causing statutory notice, the appellant filed a complaint and the same was taken cognizance in C.C.No.452/2018.

3. On the side of the appellant he examined himself as P.W.1 and marked Exs.P1 to P4. 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 for the offence punishable under Section 138 of NI Act.



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4. The learned counsel for the appellant would submit that the respondent never denied his signature found in the cheque and also the issuance of cheque. Further, the respondent had also failed to rebut the presumption. Even then, the trial Court has mechanically acquitted the respondent.

5. On perusal of the records it is revealed that the respondent did not borrow any amount from the appellant. Except the cheque, the appellant did not produce any other document to show that the respondent borrowed the said amount. The specific defence taken by the respondent was that the appellant had no income to lend such a huge amount of Rs.2,40,000/-. In the cross-examination of P.W.1, he categorically admitted that he did not account the loan amount in his income tax returns. Further, the respondent also denied the signature found in the cheque. That apart, the appellant's father had already filed a complaint filed under Section 138 of NI Act as against the respondent's wife. It shows that the appellant and his father were in the habit of filing complaints under Section 138 of NI Act with the cheque which was already issued for security purpose. Therefore, the respondent has



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categorically rebutted the presumption and even then the appellant failed to prove that the cheque was issued for legally enforceable debt. Hence the trial Court rightly acquitted the respondent and this Court finds no illegality of infirmity in the order passed by the trial Court.

6. Accordingly, this Criminal Appeal is dismissed.

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



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To
1. Judicial Magistrate No.II, Pollachi



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