



Crl.A.No.993 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2025

CORAM:

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

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M/s.Gajaalakme Tex,
Rep by its Proprietor,
V.P.Chandra kumar,
Office at,
2/52, NVP layout,
Aandipalayam Village,
Tiruppur-641 687.

..... Appellant

Vs

1.M/s Tommy Textiles,
Managing Shareholder,
T.Ponnusamy,
Office at,
15, Yearcaud,
3rd street, Karuvampalayam,
Tiruppur-641 604.

2.T.Ponnusamy

3.B.Gunasundhari

4.C.Ramesh

5.K.Ragavi

..... Respondents



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PRAYER: Criminal Appeal is filed under Section 419 of Bharatiya Nagarik Suraksha Sanhita to set aside the Judgment made in S.T.C.No.363 of 2012 by the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Tiruppur dated 07.01.2025.

For Appellant : Mr.C.Ramkumar

JUDGMENT

This Criminal Appeal has been preferred as against the Judgement dated 07.01.2025 passed in STC.No.363 of 2012 on the file of the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Tiruppur thereby acquitting the respondents for the offence under Section 138 of Negotiable Instruments Act.

2. The appellant lodged a complaint as against the respondents for the offences under Section 138 of Negotiable Instruments Act alleging that the respondents borrowed a sum of Rs.6,00,000/- on 02.02.2010 by A-2 on behalf of A-1 for their urgent needs. They also had executed pro-note. Subsequently, in order to repay the said amount they issue a cheque and it was presented for collection however, it was returned dishonored for the reason “Funds Insufficient”. After issuing show cause notice, the appellant filed a complaint and it was taken



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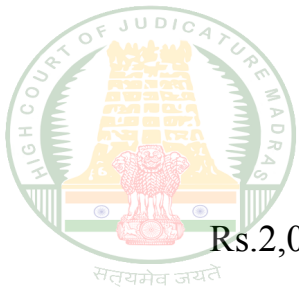
cognizance by the trial court.

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3. Before the trial court, on the side of the Appellant, they examined P.W.1 & P.W.2. On the side of the respondents, no one were examined nor any documents were marked. On perusal of the oral and documentary evidences, the trial court found the respondents not guilty of the offences under Section 138 of Negotiable Instruments Act. Aggrieved by the same, the present appeal has been filed.

4. The learned counsel for the appellant would submit that the respondents neither denied the signature found in the cheque nor issuance of the cheque. Further, they also admitted the liability and failed to rebut the presumption. However, the trial court failed to consider the said aspect and acquitted the respondents on the ground that there was a contradiction between the complaint and the evidence of P.W.1.

5. A perusal of the records reveal that the appellant was examined as P.W.1. He deposed that on one occasion, the A-4 borrowed a sum of Rs4,00,000/- and on another occasion a sum of Rs.2,00,000/-. Further, for the work done by the appellant, the respondents ought to pay a sum of



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Rs.2,00,000/- in total Rs.6,00,000/- for which respondents issued a cheque. In fact, it was also confirmed by the P.W.2. After admitting the liability, they also had executed pro-note for a sum of Rs.6,00,000/-. On perusal of the complaint and the show cause notice reveals that on behalf of the first respondent, the second respondent borrowed Rs.6,00,000/- for their urgent business purposes on 02.02.2010. Further, on the said date, they have executed pro-note. Further, it was typed by the P.W.2 and signed by the A-4. However, as per the complaint and the legal notice, the A-2 signed the pro-note on behalf of the A-1. Therefore, the respondents categorically rebutted the presumption by the extensive cross-examination by P.W.1 & P.W.2. Therefore, the cheque was not issued for legally enforceable debt. However, the appellant failed to prove that the cheque was issued for legally enforceable debt. Hence the trial court rightly acquitted the respondents.

6. In view of the above, this Court finds no infirmity or illegality in the order dated 07.01.2025 passed by the learned Judicial Magistrate, Fast Track Court at Magisterial level, Tiruppur in S.T.C.No.363 of 2012.



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7. Accordingly, the Criminal Appeal is dismissed.

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

Nhs

To

The learned Judicial Magistrate,
Fast Track Court at Magisterial level,
Tiruppur



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G.K.ILANTHIRAIYAN, J.

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