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Crl.A.No.709 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.06.2025

CORAM

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

Crl.A.No.709 of 2025

Ramarajan

...Appellant

V.Rajendran

... Respondent

Prayer: Criminal Appeal filed under Section 419 of BNSS, 2023, praying to call for the records of the judgment of acquittal delivered by the learned Metropolitan Magistrate, Fast Track II, (Magisterial Level) Egmore @ Allikulam, Chennai in STC.No.10812 of 2023 on 01.02.2025 and set aside the same consequently convict the respondent/accused according to law.

For Appellant : Mr.V.Pavel

JUDGMENT

This criminal appeal has been preferred against the judgment of acquittal delivered by the learned Metropolitan Magistrate, Fast Track II, (Magisterial Level) Egmore @ Allikulam, Chennai in STC.No.10812 of 2023 on 01.02.2025, thereby acquitted the respondent for the offence punishable under Section 138 of NI Act.

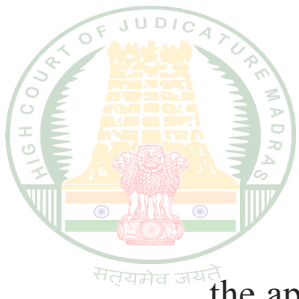


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2. The case of the appellant is that the respondent borrowed hand loan for a sum of Rs.20,17,500/- during the year 2023 for development of his business. In order to repay the said amount, the respondent issued a cheque and the same was presented for collection. However, it was returned dishonored for the reason 'funds insufficient'. After causing statutory notice, the appellant lodged complaint and the same was taken cognizance by the trial court.

3. On the side of the appellant, he had examined himself as PW1 and marked Ex.P1 to Ex.P3. On the side of the respondent, he had examined DW1 and marked Ex.D1 and Ex.D2. On perusal of oral and documentary evidences, the trial court found the respondent not guilty and acquitted him of the offence punishable under Section 138 of NI Act.

4. The learned counsel for the appellant would submit that the respondent did not deny the issuance of the cheque and also the signature found in the cheque. It was issued for legally enforceable debt. In fact, after receipt of statutory notice, the respondent failed to reply. Therefore,



Crl.A.No.709 of 2025

WEB COPY

the appellant discharged his initial burden as contemplated under Section 138 of NI Act. He further submitted that Ex.D1 shows the repayment of a meager amount. However, the cheque was issued for a sum of Rs.20,17,500/-. Even then, the trial court, without considering the above facts and circumstances, mechanically acquitted the respondent.

5. Heard, the learned counsel appearing for the appellant and perused all the materials placed before this Court.

6. On perusal of records, it is revealed that even according to the appellant, the respondent had borrowed a sum of Rs.11,67,835/- on various dates from December 2020 to 2021. It was also repaid by the respondent on various dates from 2020 to 2023 to the tune of Rs.5,95,350/- The specific case of the respondent was that the cheque was issued for security purpose and the same has been misused by the appellant. Therefore, on the date of the presentation of the cheque, there was no legally enforceable debt and as such, the said cheque was not issued for any loan amount allegedly borrowed by the respondent. That apart, the respondent had executed sale deed in favour of the appellant



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and it was marked as Ex.D2. Therefore, the trial court rightly dismissed the complaint and acquitted of the respondent.

7. In view of the above discussion, this criminal appeal is dismissed.

25.06.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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Crl.A.No.709 of 2025

WEB COPY To

The learned Metropolitan Magistrate, Fast Track II, (Magisterial Level)
Egmore @ Allikulam, Chennai



WEB COPY



6

G.K.ILANTHIRAIYAN, J.

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Crl.A.No.709 of 2025

25.06.2025

6/6