



CrI.A.No.600 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.600 of 2016

C.Ramesh

... Appellant

Vs.

V.Mahalakshmi

... Respondent

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C., against the judgment dated 11.04.2016 made in C.C.No.471 of 2008 on the file of the Judicial Magistrate No.I, Pollachi acquitting the accused under Section 255(1) Cr.P.C. for the offence under Section 138 of Negotiable Instruments Act.

For Appellant : Mr.M.N.Balakrishnan

For Respondent : Ms.A.Veeramarthini
Legal Aid Counsel



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JUDGMENT

The appellant as complainant filed a private complaint under Section 138 of Negotiable Instruments Act (hereinafter referred to as “NI Act”) against the respondent in C.C.No.471 of 2008. The learned Judicial Magistrate No.I, Pollachi by judgment dated 11.04.2016 dismissed the complaint. Against which, the present appeal filed.

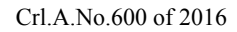
2.For the sake of convenience, the parties are referred to as complainant and accused.

3.The brief facts of the case is that the appellant and the respondent are friends. On 20.01.2008, the accused requested for a loan of Rs.7,00,000/- for her urgent family requirements. The complainant agreed and gave a loan of Rs.7,00,000/- on 20.01.2008 with interest at the rate of 12% per annum and a promissory note was executed. The accused delayed in payment and thereafter, finally she issued a cheque for Rs.7,00,000/- on 07.09.2008 drawn on Lakshmi Vilas Bank, Pollachi Branch vide Cheque



No.035627 dated 08.09.2008 and this amount of Rs.7,00,000/- is the part amount of loan. When the cheque was presented in the Bank for encashment, the same was returned for the reason “Insufficient Funds”. The Cheque and the Bank return memo was marked as Ex.P1 and Ex.P2. On 13.09.2008, Statutory notice/Ex.P3 was issued against the accused and the Postal acknowledgement was marked as Ex.P4. The accused sent a reply/Ex.P5 with false allegations. Thereafter, following the statutory procedure complaint filed. The complainant examined himself as P.W.1 and marked Ex.P1 to Ex.P5. On the side of the accused, the respondent examined herself as D.W.1. The Trial Court on conclusion of trial dismissed the complaint on the only ground that except for the cheque, there is no other supporting materials to prove that a loan of Rs.7,00,000/- was paid to the respondent and there is no averments either in the complaint or in the notice as to for what reason the loan was given. Hence, the above appeal filed.

4.The contention of the learned counsel for the appellant is that the appellant was cross examined in detail by the accused in the trial but could not cull out any feasible answer in her favour. In fact the



5.The learned counsel for the respondent submitted that in this case



the respondent disproved and probabilized her case, got into the witness box, examined herself giving explanation that the respondent is an employee under the appellant and the respondent has got no reason to borrow such huge amount of Rs.7,00,000/-. The respondent's children are studying in Government School and she does not require such huge amount. The respondent's husband borrowed a sum of Rs.1,00,000/- for which a blank cheque was issued and promissory note was executed which was stated in the reply/Ex.P5. In fact, the respondent had given the property document as security for the loan and the appellant being an employer and money lender using the unsigned cheque and pro-note of the respondent and her husband and alternatively filing cases. She would submit that the appellant himself was not sure and had not given any details as to for what reason the loan was required. She would further submit that the appellant states that during the month of January, a sum of Rs.7,00,000/- was borrowed by the respondent and 7 to 8 months thereafter, cheque was issued as part payment but what was the principal and what was the interest and for how many months interest has been paid, nothing stated either in the statutory notice or in the complaint. Thereafter during trial, the appellant had come with an improvised version. These contradictions rightly considered by the Trial



Court and finding that the respondent probalilized her defence by cogent evidence, had rightly dismissed the complaint. Hence, prayed for dismissal of the appeal.

6.Considering the submissions made and on perusal of the materials, it is seen that in this case the respondent herself got into the witness box and given explanation as to how the cheque/Ex.P1 was issued and reached the hands of the appellant. Further, the appellant is unable to give details as to what is the principal amount and what is the interest and how many months, interest has been paid and nothing has been stated by the appellant either in the Statutory notice or in the complaint. The Trial Court considering all these aspects and finding the respondent probalilized her defence by cogent evidence and materials, rightly dismissed the complaint. Hence this Court finds no reason to interfere with the findings of the Trial Court.

7.In the result, the Criminal Appeal stands dismissed.

8.This Court appreciates Ms.A.Veeramarthini, Legal Aid Counsel for



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the respondent for her strenuous efforts in doing research and putting forth the case of the respondent effectively. The Legal Services Authority to pay the remuneration to the Legal Aid Counsel as per Rules.

23.10.2025

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse

To

The Judicial Magistrate No.I,
Pollachi.



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M.NIRMAL KUMAR, J.

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