



Crl.A.No.1343 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2025

CORAM:

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

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M.Sekaran
duly rep.by his power of attorney holder,
Pandiammal
(on the demise of Sekaran in his place
Pandiyammal has been substituted vide order
passed in CMP.No.1859 of 2023 dated 17.07.2023) ... Appellant
Vs.

M.Geetha ... Respondent

PRAYER: Criminal Appeal filed under Section 419 of BNSS, praying to call for the records of the acquittal judgment passed by the learned Fast Track Court No.I, Judicial Magistrate, Coimbatore on 22.07.2024 in CC.No.193 of 2021 and set aside the same with costs.

For Appellant : M/s.R.Nivedha

For Respondent : Mr.R.Nandhakumar

JUDGMENT

This criminal appeal has been preferred against the acquittal judgment passed by the learned Fast Track Court No.I, Judicial



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Magistrate, Coimbatore on 22.07.2024 in CC.No.193 of 2021, thereby dismissing the complaint and acquitting the respondent for the offence punishable under Section 138 of NI Act.

2. The appellant lodged complaint alleging that the respondent borrowed a sum of Rs.4,00,000/- on 06.03.2017, Rs.3,00,000/- on 30.06.2017 and Rs.2,00,000/- on 14.07.2017, in total Rs.9,00,000/-. In order to repay the same, the respondent issued two cheques for a sum of Rs.4,00,000/- each and the same were presented for collection. Both were returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, complaint was filed and the same was taken cognizance by the trial court.

3. In order to prove the complaint, the appellant was examined as PW1 and marked Ex.P1 to Ex.P12. On the side of the respondent, no one was examined and no documents were produced. On perusal of oral and documentary evidences, the trial court found the respondent not guilty and dismissed the complaint. Aggrieved by the same, the present criminal appeal has been filed by the complainant.



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4. The learned counsel for the appellant would submit that the respondent categorically admitted her signature and the issuance of the cheque. Therefore, the appellant discharged his initial burden. Even then, the trial court dismissed the complaint.

5. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.

6. On perusal of records, it is revealed that there are four complaints lodged by the appellant as against the respondent, her own family members such as husband sister and another. The specific case of the appellant was that the respondent and her family members had borrowed a sum of Rs.30,00,000/- from the period 08.08.2016 to 08.11.2017 that is within a period of one year and three months. Therefore, the appellant was examined as PW1. During her cross examination, it was categorically elicited that her husband used to sell tea in drum and can in TVS 50 two wheeler and was earning Rs.70,000/- to Rs.80,000/- per month. That apart, such huge amount was lent by the appellant and no documents were received for security purpose. In fact, all the family members were lent loan by the appellant. No prudent



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person would lend such huge amount without any security document.

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Therefore, the respondent categorically rebutted the presumption as contemplated under Sections 118 and 139 of NI Act. Even then, the appellant failed to prove that the cheques were issued for legally enforceable debt. Therefore, the trial court rightly dismissed the complaint and acquitted the respondent. As such, this criminal appeal is liable to be dismissed.

7. Accordingly, this criminal appeal is dismissed.

28.08.2025

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

The learned Fast Track Court No.I, Judicial Magistrate, Coimbatore



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G.K.ILANTHIRAIYAN, J.

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