



Crl.A.No.409 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2025

CORAM

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

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M/s.J.Vignesh

.....Appellant/Complainant

Vs

M.Vinoth Kumar

....Respondent

PRAYER : Criminal Appeal has been filed under Section 419 of Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records and setting aside the judgement dated 11.02.2021 made in S.T.C.No.42 of 2020 on the file of the Judicial Magistrate, Fast Track Court, Attur, Salem.

For Appellant : No appearance

JUDGMENT

This Criminal Appeal has been preferred as against the order passed in S.T.C.No.42 of 2020 on 11.02.2021 on the file of the learned Judicial Magistrate, Fast Track Court, Attur, Salem thereby dismissed the complaint lodged for the offence under Section 138 of Negotiable Instruments Act .



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2. The appellant lodged a complaint alleging that on 06.10.2019, respondent borrowed a sum of Rs.2 lakhs and agreed to repay the said amount within one month and thereafter, in order to repay the said amount, the respondent issued a cheque. When the cheque was presented for collection, it was returned for the reason stating " Funds Insufficient". After issuing the statutory notice, the appellant lodged a complaint and the same has been taken cognizance by the Trial Court in S.T.C.No.42 of 2020.

2. On the side of the appellant, P.W1 was examined and Exs.P1 to P6 were marked. On the side of the respondent, D.W.1 was examined and Ex.D1 was marked. On perusal of oral and documentary evidence, the Trial Court acquitted the respondent for the offence punishable under Section 138 of Negotiable Instruments Act. Aggrieved by the same, the present Criminal Appeal has been filed.

3. On perusal of records revealed that the respondent denies the address in which the statutory notice was issued. Admittedly, the respondent was not residing in the address where the statutory notice was issued. Further, the notice was also returned as "Addressee Left". It shows that the appellant had sent the statutory notice to the wrong address. Hence, there was no cause of



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action even to file a complaint. In so far as, whether the cheque was issued for legally enforceable debt was concerned, the respondent did not borrow any amount from the petitioner. In order to avail loan under Women's Self Help Group, the respondent approached one Kumaresan and issued the said cheque for the security purposes and it was misused by the appellant herein.

4. On perusal of the cheque revealed that the signed cheque was filled by the appellant herein by the different ink. Therefore, Therefore, though the appellant had discharged his initial burden as contemplated under Section 138 of the Negotiable Instruments Act, the respondent had categorically rebutted the statutory presumption under Sections 118 and 139 of the Negotiable Instruments Act. Consequently, the burden shifted to the shoulder of the appellant to prove that the cheque was issued for any legally enforceable debt or liability. However, the appellant failed to substantiate that the cheque was issued towards any legally enforceable debt. Therefore, there was no liability on the part of the respondent to issue the cheque. Hence, the Trial Court rightly acquitted the respondent.

5. In view of the above, this Court finds no infirmity or illegality in



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the order dated 11.02.2021 passed in S.T.C.No.42 of 2020 on the file of the

WEB COPY Judicial Magistrate, Fast Track Court, Attur, Salem. Accordingly, this Criminal

Appeal stands dismissed.

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Speaking order/Non-speaking order

Index :Yes/No

Internet :Yes/No

Sma

To

Judicial Magistrate, Fast Track Court, Attur, Salem

G.K.ILANTHIRAIYAN, J.

Sma



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