



Crl.A.No.735 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2025

CORAM:

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

Crl.A.No.735 of 2025

Jaikumar

... Appellant

Vs

Subramanian Keechalu

... Respondent

PRAYER: Criminal Appeal is filed under Section 378 of Cr.P.C., [Section 419 BNSS] to set aside the order dated 03.02.2025 in STC No.6273 of 2023 on the file of the learned XXVI Metropolitan Magistrate Court, Egmore, Chennai - 600 008

For Appellant : Ms.Shaikh Mehrunisa

J U D G M E N T

This appeal has been preferred as against the order passed in STC No.6273 of 2023 dated 03.02.2025, thereby the respondent was acquitted for offence under Section 138 of Negotiable Instruments Act.

2. The appellant is the complainant and the respondent is the accused. The complaint was lodged by the appellant for offence punishable under

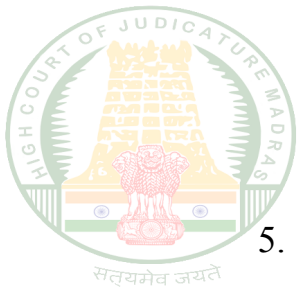


Crl.A.No.735 of 2025

Section 138 of Negotiable Instruments Act alleging that the respondent had borrowed a sum of Rs.10 Lakhs during the month of February, 2020 to September, 2021 on various dates. In order to repay the said amount, the respondent issued cheque for a sum of Rs.10 Lakhs and when the same was presented for collection, it was returned for the reason 'suspended / block bank'. After causing statutory notice, the appellant filed a complaint.

3. On the side of the appellant, he was examined as P.W.1 and marked exhibits Ex.P.1 to P.6. On the side of the respondent, he was examined as D.W.1 and no documents were marked. On perusal of the oral and documentary evidence, the trial court found that the respondent was not guilty for offences under Section 138 of Negotiable Instruments Act and acquitted the respondent. As against the same, the appellant has preferred this Appeal.

4. The learned counsel for the appellant would submit that the respondent in the reply notice for the statutory notice issued by the appellant stated that the alleged cheque was issued in favour of one Rajesh for the amount borrowed from one Rajesh and the same was mis-used by the appellant and as such, the cheque was not issued for legally enforceable debt and on that ground, the trial court acquitted the respondent, thereby pleaded to allow the present appeal.

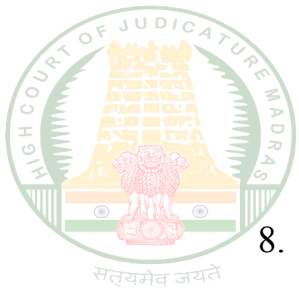


Crl.A.No.735 of 2025

5. The learned counsel for the appellant would further submit that the said Rajesh was not even examined by the respondent even then the trial court without considering the same, mechanically acquitted the respondent for offence under Section 138 of Negotiable Instruments Act.

6. Heard the learned counsel on either side and perused the documents placed on record.

7. Upon perusing the entire documents placed on record, it reveals that the specific case of the respondent was that he did not borrow any amount from the appellant herein. Further, very meager amount was borrowed from Rajesh, for which the respondent issued cheque to repay and the said cheque was not returned for the reason of misplacement, however, the said cheque was misused by the appellant herein. In fact, it was returned with an endorsement "suspended / block bank", even then, the appellant failed to examine the Manager of the Bank to prove his case that the cheque was returned for the reason to attract offence under Section 138 of Negotiable Instruments Act. Whether the account was suspended or blocked by him, there is absolutely no information. Therefore, the offence under Section 138 itself is not at all attracted as against the respondent.



Crl.A.No.735 of 2025

8. That apart, further perusal of the records reveals that the appellant produced statement of accounts and the same was marked as Ex.P.5, it shows that the appellant had no income to lend such a huge amount of Rs.10 Lakhs. Besides the above, it is not known as to how the appellant lent a huge amount that too without receiving any document from the respondent. Therefore, the respondent categorically rebutted the presumption that arose under Sections 118 and 139 of Negotiable Instruments Act as against the respondent, therefore, the trial court rightly acquitted the respondent and hence this Court finds no infirmity or illegality in the order passed by the trial court.

Accordingly, the present Criminal Appeal is dismissed.

30.06.2025

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

To

1. The XXVI Metropolitan Magistrate
Egmore.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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Crl.A.No.735 of 2025

G.K.ILANTHIRAIYAN, J.

ssd

Crl.A.No. 735 of 2025

30.06.2025