



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-12-2025

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL A No. 746 of 2012

R.Mohanasundaram,
S/o.Rengasamy,
No.158, Anna Nagar,
Dharapuram Post,
Tiruppur District.

Appellant/Complainant

Vs

V.Udhayakumar
S/o.Viswanathan,
C-21, Transport Nagar,
Lakkapuram Post, Erode District.

Respondent/Accused

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C., praying to call for the records relating to judgment for acquittal made in C.C.No.275 of 2010 dated 21.08.2012 on the file of Judicial Magistrate Court at Dharapuram, Tiruppur District and to set aside the same and order for re-trial of the case.



WEB COPY

CRL A No.746 of 2



For Appellant : Mr.K.Premkumar

For Respondent : Mr.A.V.Arun

JUDGMENT

This Court, on 17.10.2025 and 04.12.2025, had passed the following orders:

“Proceedings on 17.10.2025

The appellant as complainant had filed a private complaint against the respondent under Section 138 of the Negotiable Instruments Act in C.C.No.275 of 2010. The trial Court, by the judgment dated 21.08.2012, dismissed the complaint, against which, the present appeal is filed.

2.The contention of the learned counsel for the appellant is that the appellant has not denied the cheque/Ex.P1 and his signature in Ex.P1. The cheque is for Rs.2,00,000/-. The appellant is running a grocery shop opposite to Dharapuram bus stop. The respondent is a Ticket Checking Inspector in Tamil Nadu State Transport Corporation and for his duty he used to come to Dharapuram bus stop. During free



WEB COPY

time, he will come and sit in the appellant's shop and he became friendly. The respondent informed that he has some medical requirement and need of money and he already applied for loan in Thrift Society and it will take some time. Considering the medical urgency, the appellant gave a loan of Rs.2,00,000/-. At that time, the respondent issued a cheque in discharge of the liability on 25.07.2010. Thereafter the cheque was presented on 14.08.2010 and it was returned for the reason 'funds insufficient'. The presentation of cheque with challan is marked as Ex.P2 and Bank Return Memo marked as Ex.P3. The return of cheque was intimated to the appellant on 27.08.2010 through Ex.P4. Thereafter statutory notice issued on 20.09.2010/Ex.P5. The receipt of statutory notice on 28.09.2010 proved by acknowledgement card/Ex.P6. The respondent sent reply notice/Ex.P7 on 04.10.2010.

3.The learned counsel for appellant further submitted that in the reply notice the respondent admits that he is a ticket checker and the appellant is having grocery shop. He has not denied the cheque or signature. The only defence taken is that to cause imputation and for creating bad name and image, a false case has been projected. On the cross examination he takes a specific stand that the cheque/Ex.P1 was given to one Subramaniam, Driver in Tamil Nadu State Transport Corporation and thereafter it had landed in the petitioner's hand. But the said Subramaniam not examined as witness and no steps taken to examine him. But the trial Court on a wrong notion had given a



WEB COPY

finding that respondent is residing at Erode, which is 80 km away and the appellant is having a shop at Dharapuram and the appellant admits that he does not know the respondent's address and his family background. In such circumstances, without collecting any supporting documents like pro-note and bond, only based on the cheque giving hand loan of Rs.2,00,000/- is unbelievable. The trial Court without any evidence had given such finding is not proper.

4.The learned counsel for the respondent strongly opposed the appellant's contention and submitted that the respondent is residing at Erode and the appellant is in Dharapuram. It is highly unbelievable that the respondent used to visit Dharapuram and had friendly relationship with the appellant, who is running a grocery shop. The trial Court had rightly given a finding that the appellant not produced any document to show that he is having grocery shop with proper license. Further it had also given a finding that the cheque is not supported with any supporting documents. Hence, the trial Court had rightly considered the evidence and dismissed the complaint.

5.Considering the submissions made and on perusal of the material, it is seen that the respondent not denied the cheque/Ex.P1 or his signature. The trial Court finding that the cheque/Ex.P1 is not supported with any other negotiable instruments like pro-note or bond paper, is not proper. The respondent in his reply notice/Ex.P7 not denied or questioned as to how the appellant had came in possession



WEB COPY

of the cheque. But during cross examination for the first time, he had taken a stand that cheque was given to one Subramaniam, a Driver in TNSCTC. The said Subramaniam not examined to further probabilise his defence. On the submission, this Court finds the appellant's contention is without any infirmity.

6.The learned counsel for the respondent submits that he is unable to contact his client, who is in Erode. This Court intends to here the respondent in this aspect. Since the learned counsel for the respondent expressed his inability, this Court directs the Inspector of Police, Erode Town Police Station, Erode to ensure the presence of respondent/accused/V.Udhayakumar. S/o.Viswanathan, residing at No.C-21, Pokkuvarathu Nagar, Lakkapuram Post, Erode, Erode District on the next hearing date.

7.It is for the learned counsel for respondent to take steps to contact the respondent to get further instructions.

8.Post the appeal on 07.11.2025 under the caption 'for further orders'.

Proceedings on 04.12.2025

The learned counsel for the appellant/complainant is present.

2.The learned counsel for the respondent/accused submitted that pursuant to the order passed by this Court on 17.10.2025, he had taken fresh notice to his client/respondent and the same was returned



as 'No such person'. He has also produced the affidavit of service and seeks small accommodation.

WEB COPY

3.The learned Government Advocate submitted that already Erode Town Police have been instructed to ensure the presence of the respondent/accused before this Court.

4.Post the case on 09.12.2025 under the caption 'For Orders'."

2.Pursuant to the order passed by this Court on 04.12.2025, the learned Government Advocate obtained a report from the Village Administrative Officer, Modakurichi Taluk, Erode District confirming that the respondent, V.Udayakumar, S/o.Viswanathan had passed away on 28.10.2023. Along with it, Death Certificate of Udayakumar also produced, the same are extracted hereunder:



WEB COPY

FF இரவி மலையன், பொதுச்சிபிஐ. வ.என்,
லக்ஷ்மீநாத் திழாமல் செ, கோகிலாந்தர் நகர் என்ன
தேவாலயத்தில் வசித்து வந்த விசைவநாதன் மகன் உதயசூரியன்
என்பவர் கடந்த 28-10-2023 அன்று இறந்ததன்மீது
எனது திருப்ப சான்றிதழ் எண் 9-2023/33-16593-0013044
மீது பி.பொதுமகன் விசைவநாதனின் மூலம் செய்த
வருகிறது.

/ தி.மணிமுடி உபயோகித்தல் மட்டுமே

ச.க.ச.வ.வ.வ.
02-10-2023
திரைம திரைம திரைம
ச. பஞ்சவர்ண மகன்மகன்
ச. தி.மணிமுடி உபயோகித்தல் மட்டுமே
பொதுமகன் மட்டுமே



<https://www.mhc.tn.gov.in/judis>



WEB COPY

3. In view of the same, nothing survives for further adjudication in the criminal appeal and the same is dismissed.

09-12-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

rsi

To

The Judicial Magistrate Court at Dharapuram,
Tiruppur District.



WEB COPY

CRL A No.746 of 2



M. NIRMAL KUMAR, J.

rsi

CRL A No. 746 of 2012



WEB COPY

CRL A No.746 of 2



09.12.2025