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CrI.A.No.896 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2025

CORAM :

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

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1.Jayam Traders,
Rep. by its Managing Partner,
Maheswari,
D.No.84, 2nd Floor,
A.S.Complex, Mohanur Road,
Namakkal Taluk & District.

2.Rep. By Power agent,
M.Kannan

... Appellants

Vs

P.Anbazhagan

... Respondent

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C., pleased to call for records in relation to the judgment dated 04.10.2023 passed by the learned Judicial Magistrate, Additional Mahila Court, Namakkal in C.C.No.463 of 2021, set aside the same by convicting the respondent/accused for the offence punishable under section 138 of the Negotiable Instruments Act.



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For Appellants : Mr.S.Senthil

For Respondent : Mr.K.T.S.Sivakumar

JUDGMENT

This Criminal Appeal has been preferred as against the judgment dated 04.10.2023 passed by the learned Judicial Magistrate, Additional Mahila Court, Namakkal in C.C.No.463 of 2021, thereby acquitting the respondent for the offence punishable u/s 138 of Negotiable Instruments Act (in short 'the NI Act').

2. The respondent is the accused in the complaint lodged by the appellants/complainant for the offence u/s 138 of the Negotiable Instruments Act (in short 'the NI Act'), alleging that the complainant is doing business of feeds raw material in Namakkal as Managing Partner of Jayam Traders. The respondent is doing bran business in Karur under the name of Sujay Traders and that way both are friends for last four years. The complainant has paid a sum of Rs.16,48,590/- on various days from 15.06.2016 to 15.12.2016 as advance for purchase of feeds raw material



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from the accused, however the accused failed to supply the raw materials for the said advance amount. In spite of repeated demand made by the complainant, the accused did not come forward to settle the said amount and on 15.10.2018, the accused had issued a cheque bearing No.000772 dated 11.01.2018 drawn on Karur Vysya Bank, Karur Branch for a sum of Rs.16,48,590/-. The complainant presented the cheque for collection on 06.02.2019 and the same was returned dishonoured with the endorsement "Funds Insufficient". After causing the statutory notice, the appellants filed a complaint under Section 138 of the Negotiable Instruments Act.

3. On the side of the appellants, P.W.1 was examined and Ex.P1 to Ex.P30 were marked. On the side of the accused, D.W.1 and D.W.2 were examined and Ex.D1 to Ex.D5 were marked. On perusal of the oral and documentary evidence, the Trial Court found the respondent not guilty and acquitted him of the charges under Section 138 of the Negotiable Instruments Act. Aggrieved by the same, the present appeal is filed.

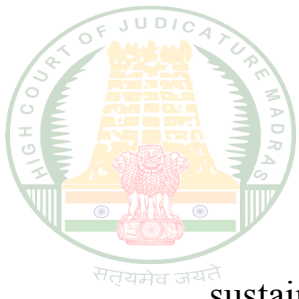


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4. The learned counsel for the appellants would submit that the respondent did not deny the issuance of cheque and the signature found in the cheque. Therefore, the appellants discharged the initial burden as contemplated u/s 138 of NI Act, however the respondent failed to rebut the presumption u/s 118 and 139 of NI Act. Even then, the Trial Court mechanically dismissed the complaint. Further, he submitted that though the appellants admitted that pending complaint, the appellants received a sum of Rs.12,00,000/- from the respondent, it is not for the same transaction, but for another transaction between the appellants and the respondent. Therefore, the offence under Section 138 of the Negotiable Instruments Act is clearly made out and even then the Trial Court acquitted the respondent on the ground that the appellants failed to prove the case.

5. The learned counsel appearing for the respondent would submit that after elaborately considering the oral and documentary evidence, the Trial Court had rightly acquitted the respondent, which is wholly



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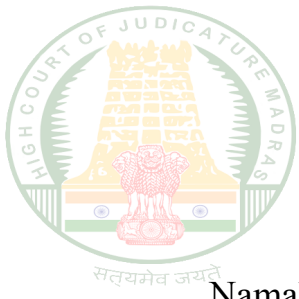
sustainable and the same does not require any interference by this Court.

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Accordingly, he prays for dismissal of this appeal.

6. Heard the learned counsel appearing for the parties and also perused the materials available on record.

7. A perusal of the records reveals that there was a business transaction between the appellants and the respondent. The respondent used to supply feed raw materials to the appellants, for which, the appellants paid the disputed amount as advance to the respondent. According to the appellants, there was no supply of raw materials and as such, a sum of Rs.16,48,590/- was with the respondent as outstanding amount. In order to repay the said amount, the respondent issued a cheque and the same was presented for collection, which was returned for the reasons "Funds Insufficient". In order to rebut the presumption, the respondent had examined D.W.1 and D.W.2. D.W.1, who is the Inspector of DCB, Namakkal. D.W.1 categorically deposed that upon the complaint lodged by the appellants before the Superintendent of Police,



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Namakkal, the same had been forwarded to the DCB, Namakkal, in which, D.W.1 had conducted enquiry on 18.03.2019 and both the parties agreed to settle for Rs.15,00,000/- for the total outstanding Rs.29,19,950/-. Thereafter, even according to the appellants, they have received Rs.12,00,000/- from the respondent. However, it was completely suppressed by the appellants and the cheque given for security purpose was filled up by the appellants and presented for collection. Therefore, the respondent categorically rebutted the presumption arises u/s 118 and 139 of NI Act that the cheque was not issued for any legally enforceable debt. Therefore, no offence under Section 138 of the Negotiable Instruments Act is made out against the respondent. Hence, the Trial Court rightly acquitted the respondent of the offence u/s 138 of NI Act.

8. In view of the above, this Court finds no infirmity or illegality in the Judgment dated 04.10.2023 made in C.C.No.463 of 2021 on the file of the learned Judicial Magistrate, Additional Mahila Court, Namakkal.



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9. Accordingly, this Criminal Appeal stands dismissed.

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

The Judicial Magistrate,
Additional Mahila Court,
Namakkal.



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G.K.ILANTHIRAIYAN, J.

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