



Crl.A.No.746 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 01.07.2025

CORAM

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

Crl.A.No.746 of 2025

Vasantharaj

.....Appellant / Complainant

Vs

D.Samathanam

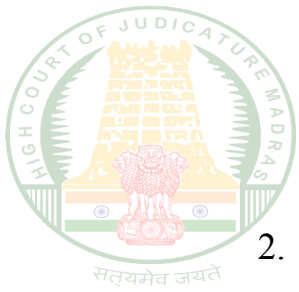
.... Respondent/Accused

Prayer: Criminal Appeal filed under Section 419 of Bharatiya Nagarik Suraksha Sanhita, 2023, to allow the above Criminal Appeal by setting aside the judgment dated 17.02.2025 passed in C.C.No.103 of 2021 on the file of the Judicial Magistrate Court No.1, Madurantagam acquitting the respondent herein under Section 138 of Negotiable Instruments Act.

For Appellant : Mr.S.Sriram

JUDGMENT

This Criminal Appeal has been preferred as against the judgment dated 17.02.2025 passed in C.C.No.103 of 2021 on the file of the Judicial Magistrate Court No.1, Madurantagam acquitting the respondent herein under Section 138 of Negotiable Instruments Act.



2. The appellant is the complaint who filed a complaint as against the respondent alleging that the respondent borrowed a sum of Rs.23,00,000/- on 30.09.2018. After repeated request to repay the said amount, the respondent issued cheque for the said sum. When it was presented for collection, it was returned dishonoured for the reason “Exceeds Arrangement”. After causing statutory notice, the appellant filed the complaint and the same has been taken cognizance by the trial court. On the side of the appellant he had examined P.W.1 to P.W.3 and marked Exs.P1 to P4. On the side of the respondent, he had examined as D.W.1 and no documents were marked. On perusal of the oral and documentary evidence, the trial Court dismissed the complaint. Aggrieved over the same, the present appeal has been filed.

3. The learned counsel for the appellant would submit that the appellant had discharged his initial burden as contemplated under Section 138 NI Act. However, the respondent failed to rebut the same. The respondent did not even reply to the statutory notice and take a specific stand that the appellant had no source of income and lent such a huge amount. Even then the trial court acquitted the respondent on the ground that the appellant had no source of income to lend such huge amount that too within a short span of time.

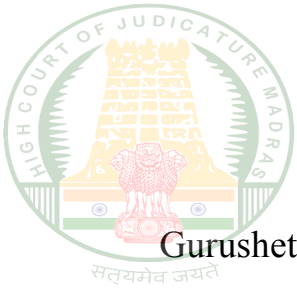


Crl.A.No.746 of 2025

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4. On a perusal of the records it is revealed that the appellant is a teacher and had lend a sum of Rs.18,00,000/- loan on 15.06.2018 to Gurushetra. Immediately on 30.09.2018 a sum of Rs.23,00,000/- was lent to the respondent herein. Therefore, the appellant had lent a sum of Rs.41,00,000/- as loan to two person within a short span of time. A specific defense was taken by the respondent that she never borrowed any loan from the appellant. According to the appellant, the said loan was borrowed by the respondent for medical expenses of respondent's husband. But the respondent specifically deposed that her husband died on 01.01.2016. Therefore, she had absolutely no need to borrow such a huge amount of Rs.23,000,000/- that too on 30.09.2018.

5. The respondent further deposed that there was a money transaction between the respondent's sister's son one Gurushetra in respect of the loan borrowed by the appellant and a complaint was lodged before the Inspector of Police, Madurantakam Police Station, in which the respondent went to the police station along with other panchayatars. The respondent being a Government servant was insisted by the Inspector of Police to stood as a guarantor and also issued unfilled and unsigned cheques. Subsequently,



Gurushetra settled some property by way of power of attorney in favour of appellant's friend Moses. Thereafter, the appellant had returned only two cheques and one cheque was misused by presenting the same for collection, that too, the appellant had forged the signature of the respondent and presented for collection. Therefore, the respondent had categorically rebutted the presumption and even then the appellant failed to prove his case in the manner known to law. The trial Court has rightly acquitted the respondent and this Court finds no infirmity or illegality in the order passed by the trial Court.

6. Accordingly, this Criminal Appeal is dismissed.

01.07.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Interned : Yes
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Crl.A.No.746 of 2025

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Judicial Magistrate Court No.1, Madurantagam



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6

G.K.ILANTHIRAIYAN, J.

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Crl.A.No.746 of 2025

01.07.2025