



Crl.A.No.1029 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.07.2025

CORAM

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

Crl.A.No.1029 of 2025

K.Madesan

...Appellant

C.Vivekanandan

... Respondent

Prayer: Criminal Appeal filed under Sections 374 r/w 401 of Cr.P.C., praying to set aside the judgment dated 13.02.2025 made in C.C.No.325 of 2023 on the file of the Judicial Magistrate No.I, Mettur by allowing the criminal appeal.

For Appellant : Mr.S.Doraiswamy

JUDGMENT

This criminal appeal has been preferred against the judgment dated 13.02.2025 made in C.C.No.325 of 2023 on the file of the Judicial Magistrate No.I, Mettur, thereby dismissing the complaint filed by the appellant and acquitting the respondent for the offence punishable under Section 138 of NI Act.

2. The appellant filed complaint against the respondent for the



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offence punishable under Section 138 of NI Act alleging that the respondent borrowed a sum of Rs.50,00,000/- in the month of November 2021 as hand loan to develop his business. In order to repay the said amount, he issued cheque for the said sum on 05.04.2023 and it was presented for collection. But it was returned for the reason 'account closed'. After causing statutory notice, complaint was lodged and the same was taken cognizance by the trial court.

3. In order to prove the complaint, the appellant examined PW1 and PW2 and marked Ex.P1 to Ex.P21. On the side of the respondent, he had examined DW1 and DW2 and marked Ex.D1 to Ex.D3. On perusal of oral and documentary evidences, the trial court acquitted the respondent for the offences under Section 138 of NI Act and dismissed the complaint. Aggrieved by the same, the present appeal has been filed.

4. The learned counsel for the appellant would submit that on receipt of the statutory notice, the respondent issued reply notice. In the reply notice, he categorically admitted the issuance of the cheque and the signature found in the cheque. Therefore, the appellant had discharged his



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initial burden as contemplated under Section 138 of NI Act. Further, the respondent also failed to rebut the presumption and even then, the trial court failed to convict the respondent.

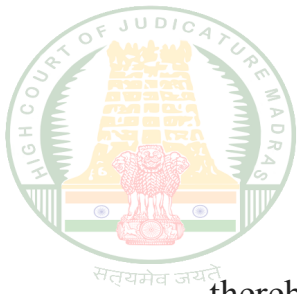
5. Heard, the learned counsel for the appellant and perused, all the materials placed before this Court.

6. On perusal of records, it is revealed that the appellant lodged complaint alleging that he had lent a sum of Rs.50,00,000/- as hand loan to the respondent in the month of November 2021. In order to repay the said amount, the respondent issued cheque for the said sum on 05.04.2023. The appellant did not even whisper about the date on which he had lent such huge amount of loan to the respondent. That apart, for the said loan, the appellant did not receive any document for security purpose. No prudent person would lend such a huge amount, that too without any security document. Further, he did not even know the date on which he had lent money. After dishonour of the cheque, the appellant had issued statutory notice . On receipt of the same, the respondent issued reply notice which was marked as Ex.P6.



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7. On perusal of Ex.P6, it is revealed that the respondent borrowed a sum of Rs.5,00,000/- from the appellant in the year 2017 while producing the movie called 'kida virundhu'. In fact, he also thanked him in the title of the movie. While borrowing the said loan, the respondent issued cheque for security purpose. He also borrowed loan from various financial institutions. After release of the movie, all the borrowers were settled including the appellant herein. In fact, the cheque was issued much before the year 2017 when the respondent was running a textile business in the name of Ananda Sarees. In the year 2017, he closed down his business and also closed the entire account. Therefore, the respondent did not insist to return back the cheque since the account was closed. Utilising the said circumstances, the respondent filled the cheque for Rs.50,00,000/- and presented the same. The appellant was examined as PW1 and he was categorically cross examined by the respondent. Further, the appellant was working as teacher and form 16A was also produced. Therefore, the appellant also failed to prove his source of income to lend such huge amount of loan, that too without any security document. That apart, the respondent had examined DW1 and DW2,



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thereby rebutted the presumption as contemplated under Sections 118 and 139 of NI Act. Even then, the appellant failed to prove that the cheque was issued for any legally enforceable debt. Hence, the cheque was not issued for legally enforceable debt and the trial court rightly acquitted the respondent. As such, this Court finds no infirmity or illegality in the judgment passed by the trial court.

8. Accordingly, this criminal appeal stands dismissed.

22.07.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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The Judicial Magistrate No.I, Mettur



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