



Crl.A.No.789 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2025

CORAM:

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

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Manikandan

... Appellant

Vs.

Ajith.K.Mathew

... Respondent

PRAYER: Criminal Appeal filed under Section 378(4) of Cr.P.C., praying to call for the records in STC.No.152 of 2020 on the file of the Principal District Munsif cum Judicial Magistrate, Gudalur and to set aside the judgment dated 20.03.2024 and convict the respondent under Section 138 of Negotiable Instruments Act.

For Appellant : Mr.G.Jaisivaramaraj

JUDGMENT

This criminal appeal has been preferred against the order of acquittal passed in STC.No.152 of 2020 dated 20.03.2024 on the file of the Principal District Munsif cum Judicial Magistrate, Gudalur for the offence punishable under Section 138 of NI Act.

2. The case of the the appellant is that he lodged complaint



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against the respondent for the offence punishable under Section 138 of NI

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Act alleging that the respondent borrowed a sum of Rs.5,00,000/- on 13.05.2019. In order to repay the said amount, he issued a cheque on 13.11.2019. It was presented for collection and the same was returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, the appellant filed complaint and the same was taken cognizance by the trial court. In order to bring the charges to home, the appellant had examined PW1 and marked Ex.P1 to Ex.P5. On the side of the respondent, no one was examined and no documents were produced. On perusal of oral and documentary evidences, the trial court found the respondent not guilty and acquitted him for the offence punishable under Section 138 of NI Act.

3. The learned counsel for the appellant would submit that the appellant discharged his initial burden as contemplated under Section 138 of NI Act since the respondent did not deny the signature found in the cheque and also the issuance of the cheque. However, the respondent failed to rebut the presumption. Even then, the trial court acquitted the respondent.

4. Heard, the learned counsel for the appellant and perused, all



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the materials placed before this Court.

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5. On perusal of records, it is revealed that during the cross examination of PW1, he categorically admitted that he filed another complaint against a lady, one, Pattammal alleging that he lent a sum of Rs.4,00,000/- to her. The appellant is working as Assistant Professor and he is drawing salary of only Rs.30,000/- per month. Though he is an income tax assessee, the amount which was lent by him to the tune of Rs.9,00,000/- was not accounted anywhere. That apart, he had lent such a huge amount of Rs.5,00,000/- to the respondent without any security. Further, the said sum was lent by him on 13.05.2019. Thereafter, only on 13.11.2019, the respondent issued the cheque in order to repay the said loan amount. Therefore, the respondent categorically rebutted the presumption under Sections 118 and 139 of NI Act. However, the appellant failed to prove that the cheque was issued for any legally enforceable debt. Therefore, the trial court rightly acquitted the respondent and this Court finds no infirmity or illegality in the impugned order.

6. Accordingly, this criminal appeal is dismissed.



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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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To
Principal District Munsif cum Judicial Magistrate, Gudalur



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G.K.ILANTHIRAIYAN, J.
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