



Crl.A.No.831 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2025

CORAM

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

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V.K.Senthilkumaran

.....

Appellant

Vs

M.Suganyadevi

.....

Respondent

PRAYER : Criminal Appeal has been filed under Section 419 of Bharatiya Nagarik Suraksha Sanhita, 2023, praying to set aside the order dated 17.03.2025 passed by the Metropolitan Magistrate No.XXVII, (Fast Track Court) Saidapet, Chennai in S.T.C.No.2575 of 2022 and allow this Criminal Appeal.

For Appellant : Mr.V.Arul

JUDGMENT

This Criminal Appeal has been preferred as against the Judgment dated 17.03.2025 passed in STC No.2575 of 2022 by the XXVII Metropolitan Magistrate (Fast Track Court), Saidapet, Chennai, thereby acquitted the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act.



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2. The appellant is the complainant and the respondent is the accused in the complaint filed for the offence punishable under Section 138 of the Negotiable Instruments Act. It is alleged that, on 10.05.2020, the respondent borrowed a sum of Rs.2,00,000/- from the appellant to meet out expenses relating to the land registration and agreed to repay the same with interest at the rate of 24% per annum. In order to repay the said loan amount, the respondent issued a cheque and the same was presented for collection. However, it was returned with an endorsement “funds insufficient”. After causing statutory notice to the respondent, the appellant filed a complaint and the same has been taken cognizance by the Trial Court in STC No.2575 of 2022.

3. On the side of the appellant, P.W.1 was examined and Exs.P1 to P5 were marked. On the side of the accused, D.W.1 was examined and Exs.D1 to D3 were marked.

4. On perusal of the oral and documentary evidence, the Trial Court found the respondent not guilty of the offence punishable under Section 138 of the Negotiable Instruments Act. Aggrieved by the same, the present Criminal Appeal has been filed by the appellant.



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5. The learned counsel appearing for the appellant would submit that the Trial Court acquitted the respondent solely on the ground that the appellant failed to produce the income tax returns shown that he had lend a sum of Rs.2,00,000/-. He further submitted that the respondent denied the signature and issuance of the cheque. However, once the appellant had discharged the initial burden and since the respondent failed to rebut the same, the Trial Court acquitted the respondent.

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

7. A perusal of the records reveals that the respondent was examined as D.W.1. The specific case of the respondent was that the appellant was introduced her through one Ganesan for purchasing a house. The appellant had agreed to sell the property and had shown the same to the respondent. According to the respondent, there was no agreement between them regarding payment of any commission towards purchase of the property. Further, the respondent entrusted the



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construction work to the appellant and paid a sum of Rs.1,00,000/- as advance on 9.05.2020, in respect of the proposed construction cost of Rs.2,00,000/-. The respondent also issued two signed cheques, but unfilled cheques. However, no construction was carried out thereafter.

8. In support of his contention, the respondent also marked Exs.D1 to D3. The house estimation given by the builder was marked as Ex.D1 ; the sale deed executed in favour of the respondent was marked as Ex.D2 and the receipt issued by the builder acknowledging the advance of Rs.1,00,000/- was marked as Ex.D3. Therefore, the respondent has categorically rebutted the presumption under Sections 118 and 139 of the Negotiable Instruments Act. Even then, the appellant failed to prove that the cheque was issued towards a legally enforceable debt. Hence, the Trial Court rightly acquitted the respondent.

9. In view of the above, this Court finds no infirmity or illegality in the Judgment dated 17.03.2025 passed in STC No.2575 of 2022 by the XXVII Metropolitan Magistrate (Fast Track Court), Saidapet, Chennai. Accordingly, this Criminal Appeal stands dismissed.



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Speaking order/Non-speaking order

Index :Yes/No

Internet :Yes/No

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To

The XXVII Metropolitan Magistrate,
(Fast Track Court) Saidapet, Chennai.

G.K.ILANTHIRAIYAN, J.

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