



Crl.A.No.443 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2025

CORAM

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

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A.Palani

... Appellant

Vs

M.Glitus

...Respondent

PRAYER : Criminal Appeal has been filed under Section 397 and 401 of Criminal Procedure Code, to call for the records on the file of the learned IIIrd Additional District and Sessions Judge, Coimbatore, Coimbatore District in Crl.A.No.155 of 2017 dated 14.10.2017 and confirming the Judgment passed in CC.No.521 of 2009 on the file of the learned Judicial Magistrate, No.II, Coimbatore, Coimbatore District dated 23.03.2011 and set aside the Judgment dated 14.10.2017.

For Appellant : Mr.R.Vasudevan

JUDGMENT

This Criminal Appeal has been filed as against the Judgment passed in Crl.A.No.155 of 2017 dated 14.10.2017 by the IIIrd Additional District and Sessions Judge, Coimbatore, Coimbatore District, thereby confirming the Judgment passed in CC.No.521 of 2009 dated 23.03.2011, on the file of the learned Judicial Magistrate, No.II, Coimbatore, Coimbatore District, thereby dismissing the complaint filed by the appellant herein for the offence punishable



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under Section 138 of Negotiable Instruments Act.

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2. The appellant is the complainant and the respondent is the accused in the complaint lodged by the appellant in C.C.No.521 of 2009 for the offence punishable under Section 138 of Negotiable Instruments Act, alleging that the respondent borrowed a sum of Rs.5 Lakhs on 12.12.2007 for his business purpose and urgent family expenses. On the date of borrowal, the respondent had issued post dated cheque dated 22.01.2008 for the said amount. On instructions, the cheque was presented for collection on 22.01.2008 and the same was returned dishonoured for the reason “Account Closed”. After causing statutory notice, the appellant herein filed a complaint.

3. As per the complaint and the statutory notice, the specific case of the appellant herein is that the respondent borrowed a sum of Rs.5 Lakhs on 12.12.2007. However, the appellant deposed that a sum of Rs.1 Lakh was paid by way of cheque on 20.11.2007, a sum of Rs.2,25,000/- was paid by way of cheque on 30.11.2007 and a sum of Rs.1,75,000/- was paid by way of cash on 12.12.2007 to the respondent herein. It is completely contradictory to the case of the appellant in the statutory notice, complaint and proof affidavit filed before the Trial Court.



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4. Therefore, the cheque for a sum of Rs.5 Lakhs was not issued by the respondent for any legally enforceable debt. The appellant failed to prove that the cheque was issued for legally enforceable debt.

5. In view of the above, the Trial Court had rightly acquitted the respondent for the offences under Section 138 of Negotiable Instruments Act and the same was also rightly confirmed by the appellate Court and this Court finds no grounds to interfere with the orders passed by the Trial Court as well as the appellate Court.

6. 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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G.K.ILANTHIRAIYAN, J.

mn

To



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1. The IIIrd Additional District and Sessions Judge,
Coimbatore, Coimbatore District.

2. The Judicial Magistrate, No.II,
Coimbatore, Coimbatore District.

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