

Crl. A. No. 764 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

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R. Krishnan

... Appellant

Vs.

S. Balakrishnan

... Respondent

PRAYER: Criminal Appeal is filed under Section 419 of BNSS Act, 2023, to set aside the acquittal judgement made in C.C. No. 415 of 2020 dated 24.01.2025 on the file of the learned Judicial Magistrate-II, Pollachi.

For Appellant : Mr. A. Raghupathy Raj

J U D G M E N T

This Criminal Appeal has been preferred as against the judgment passed in C.C. No. 415 of 2020 dated 24.01.2025 on the file of the Judicial Magistrate No.II, Pollachi thereby dismissed the



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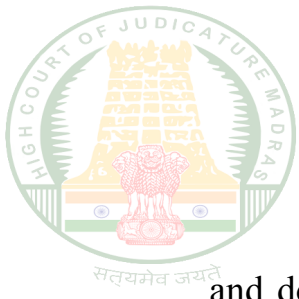
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complaint and acquitted the respondent for the offence punishable under Section 138 of Negotiable Instruments Act.

2. The appellant is the complainant and the respondent is an accused.

3. On the complaint lodged by the appellant for the offence punishable under Section 138 of Negotiable Instruments Act alleging that the respondent borrowed a sum of Rs.3.50 lakhs as hand loan on 29.03.2019 by issuing post dated cheque. It was presented for collection. However, it was returned dishonoured for the reason “funds insufficient”. After causing statutory notice, the appellant filed complaint and the same has been taken cognizance by the trial Court.

4. During the trial, the appellant had examined PW.1 and marked Ex.P1 to Ex.P4. On the side of the respondent, no one was examined and no documents were produced. On perusal of the oral



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and documentary evidence, the trial Court found the respondent not guilty for the offence punishable under Section 138 of Negotiable Instruments Act and acquitted the respondent. Aggrieved by the same, the present appeal has been preferred.

5. Learned counsel for the appellant would submit that the respondent did not deny the signature and issuance of cheque which was marked as Ex.P1. Therefore, the appellant discharged his initial burden, as contemplated under Section 138 of Negotiable Instruments Act, even then, the trial Court acquitted the respondent for the reason that the cheque was filled by the appellant and presented for collection. Therefore, it was not issued for any legally enforceable debt.

6. Perusal of records revealed that though the respondent did not examine anybody on his side, the PW.1 was cross examined by him. During cross examination, PW.1 categorically admitted that on receipt of the said cheque, the respondent borrowed money. The



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alleged amount was borrowed by the respondent on 29.03.2019.

Immediately within 10 days, the appellant filled the cheque and presented for collection. Therefore, the respondent rebutted the presumption under the Negotiable Instruments Act. However, the appellant failed to prove the case in accordance with law.

7. Therefore, the trial Court rightly acquitted the respondent and this Court finds no infirmity or illegality in the order dated 24.01.2025 passed by the Judicial Magistrate No.II, Pollachi in C.C. No. 415 of 2020.

8. Accordingly, this Criminal Appeal stands dismissed.

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Index : Yes/No
Neutral citation : Yes/No
AT

To
The Judicial Magistrate-II, Pollachi.



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G.K.ILANTHIRAIYAN, J.

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