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CRL A No. 310 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-11-2025

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THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL A No. 310 of 2022

Mr.MEIYYAN

..Appellant(s)

Vs

Mr.K.Jeyakumar

..Respondent(s)

Prayer: Criminal appeal filed under Section 378 of Code of Criminal Procedure to set aside the judgment passed in S.T.C.No.576 of 2013 dated 20.01.2020 on the file of Judicial Magistrate I, Perambalur.

For Appellant(s): Ms.C.Sangamithirai

For Respondent(s): Mr.R. Bharath Kumar

JUDGMENT

This appeal is filed against the judgment of the learned Judicial Magistrate No.I, Perambalur dated 20.01.2020 made in S.T.C.No.576 of 2013. By the said judgment, the respondent/accused was acquitted for the offence under Section 138 of Negotiable Instruments Act, 1881. It is a private complaint filed by the appellant/complainant under Section 200 of Code of



Criminal Procedure complaining an offence under Section 138 of Negotiable Instruments Act, 1881.

2. The case of the complainant is that the accused had prayed for a loan of sum of Rs.10,00,000/- towards purchase of lorry, promising to repay within a period of one week. After a week, in discharge of the liability, the accused issued the subject matter cheque dated 26.03.2013 for the said sum of Rs.10,00,000/-. Upon being presented, the same was returned dishonoured with an endorsement "insufficient funds". The complainant issued a statutory notice. The accused did not make any payment within the statutory period nor any reply notice was issued and hence the complaint was foisted.

3. Upon recording sworn statement, the complaint was taken on file as S.T.C.No.576 of 2013 by the learned Judicial Magistrate No.1, Perambalur. Upon issue of summons, furnishing copies and questioning, the accused denied the allegations. In order to bring home the charge, the complainant examined himself as PW1/Meiyyan and one Sivadurai, the Manager of the HDFC Bank, Perambalur branch was examined as PW2. The original cheque was marked as Ex.P1, cheque return memo was marked as Ex.P2, the statutory notice was marked as Ex.P3 and the acknowledgement card was marked as Ex.P4.

4. Upon being questioned about the incriminating evidence on record under Section 313 of Code of Criminal Procedure, the accused denied the same



as false. Thereafter, one Subramaniam/father-in-law of the accused was examined as DW1 and the accused examined himself as DW2. An agreement deed between the father-in-law of the accused and the complainant was marked as Ex.D1 and legal notice that was issued was marked as Ex.D2. The trial Court thereafter considered the case of the parties.

5. The trial Court considered the fact that, when a huge sum of Rs.10,00,000/- is being advanced and when no other document in support thereof has been filed, especially when the complainant is said to be in finance business, the transaction cannot be believed, as the lawful manner in which it is advanced, is not proved by the complainant before the trial Court and held that the accused has rebutted the presumption by due cross examination to the level of preponderance of probability and acquitted the accused. As against which the appeal is filed.

6. Ms.C.Sangamithirai, learned counsel appearing on behalf the appellant by taking this Court through the evidence on record would submit that this is a case where the accused had pleaded that he is purchasing a lorry and that he has applied for a regular bank loan and in the mean while, he wanted urgent cash and as such a sum of Rs.10,00,000/- was advanced. The complainant has categorically deposed that within 15 days of the borrowal, the accused came over and repaid the same by presenting the subject matter



cheque. The same was duly presented and upon dishonoured, the statutory notice was issued in time. Not even a reply was issued by the accused. The complaint was taken on file and the complainant has examined himself and spoken about the liability. The presumption operates in favour of the complainant. The accused has not done anything to rebut the presumption. The complainant has withstood the cross examination. Except for alleging transactions with reference to the father-in-law of the accused, the accused has not let in any evidence as to why the cheque was issued and once the signature is admitted and the liability being spoken by the complainant, the trial Court erred in further insisting on other proof from the complainant. The same is against the settled law relating to the offences under Section 138 of the Negotiable Instruments Act.

7. Mere raising of doubt is not enough and the rebuttal of presumption, if any, should be to the level of preponderance of probability and the accused has not done anything except to come up with a story which was not proven to the level of preponderance of probability. Therefore, she would submit that this Court should interfere and overturn the findings as to one of guilty and order the accused to pay the entire cheque amount.

8. Per contra, the learned counsel appearing on behalf of the respondent/accused would submit that in this case the accused has taken a



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defence that his father-in-law and the other members of the family had several transactions with the complainant. In fact, the complainant completely burked the same in the complaint as well as in the statutory notice. The details of the cases filed etc., have all been given in the DW1's evidence. As a matter of fact, the complainant threatened to misuse one of the cheques upon being enraged by the DW1 and the other family members asseting their repayment. This is a case where financier, misusing each and every document, filing different cases as against the different members of the family and trying to extract more amount. The person like the complainant, who's in the finance business will not advance such a huge amount without proper documentation. The only documentation that is said to be done in the instant case, being the promissory note is also not produced by the complainant before the Court. Therefore, the trial Court has acquitted the accused by giving the benefit of doubt.

9. I have considered the rival submissions made on either sides and perused the material records of the case.

10. Firstly, in this case the complainant is admittedly a financier. Admittedly, upon borrowal of the amount for the purpose of purchase of lorry the accused is set to have executed a promissory note. The complainant didn't produced the said promissory note before the trial Court. In spite of specific cross examination, the same was not done.



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11. Secondly, when a huge amount of Rs.10,00,000/- is being advanced, in the complaint as well as in the legal notice not even the particulars of the said lorry said to have been purchased etc., were mentioned. Further, the case of the accused is that there has been several transactions with the complainant. The details are categorically mentioned in the cross examination of the complainant and also in the DW1's evidence. A accumulative reading of the cross examination of PW1, DW1 and DW2, it can be seen that the case of the accused is that, while at the time of borrowal of the loan by the father-in-law of the accused namely DW1, the accused also had given the instant cheque as a security. The same has been specifically put to the PW1 in the cross examination. It is not the case of the complainant that the writings in the cheque namely the name of the complainant or the amount Rs.10,00,000/- or the date were all written by the accused.

12. Considering the overall facts and circumstances of the case, the findings of the trial Court that, in view of the aforesaid evidence i.e., by cross examining PW1 and also examining DW1 and DW2, the accused had rebutted the presumption and when the complainant has not let in any further evidence with reference to the loan, especially, when he is said to have got a promissory note and the same was not even being produced, the finding of the trial Court



cannot be said to be a perverse finding or an implausible view so has to be
upturned in an appeal against acquittal.

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13 . Accordingly, finding no merits, the appeal stands dismissed.

10-11-2025

Neutral Citation: No

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CRL A No. 310 of 2



D.BHARATHA CHAKRAVARTHY J.

mpl

To

1. The Judicial Magistrate No.I,
Perambalur.
2. The Section Officer,
Criminal Section,
High Court of Madras.

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