IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.06.2025

CORAM

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

Crl.A.No.656 of 2025

M/s.AG-Grow Products Limited,
Rep. by its Authorised Signatory,
V.R.Ethiraj Sampath Kumar,
S/o. Ramakrishnainh Chetty,
No.6, Lakshmi Street,
Kilpauk,
Chennai – 600 010. ..... Appellant

Vs

Venkata Reddy,
S/o. Jaganatha Reddy,
C/o. M/s.Srinivasa Seeds and Pesticides
Shop No.7, Seetharama Complex,
Station Road,
Warangal – 506 002.
Andra Pradesh. ..... Respondent

Prayer: Criminal Appeal is filed under Section 419 of BNSS to call for the records of the trial Court and allow the above appeal by setting aside the order dated 28.03.2025 passed in STC No.5368 of 2021 on the file of the Hon'ble Metropolitan Magistrate Court, Fast Track Court No.I, Egmore, Allikulam.

For Appellant : Mr.C.Kathirudayan

JUDGMENT

This Criminal Appeal has been preferred as against the order dated 28.03.2025 passed in STC No.5368 of 2021 on the file of the Hon'ble Metropolitan Magistrate Court, Fast Track Court No.I, Egmore, Allikulam, thereby dismissing the complaint filed by the appellant for the offence punishable under Section 138 NI Act.

2. The appellant is the complainant and the respondent is an accused in the complaint lodged by the appellant for the offence punishable under Section 138 of NI Act on the allegation that the appellant supplied pesticides and insecticides for agricultural usage to the respondent and towards purchase of the said product the respondent was liable to pay a sum of Rs.9,49,752/-. In order to settle the said amount, the respondent issued a cheque for the said amount and the same was presented for collection. However it was returned dishonored for the reason “funds insufficient”. After causing statutory notice, the appellant lodged complaint.

3. On the side of the appellant, he had examined P.W.1 and marked Exs.P1 and P12. On the side of the respondent, he was examined as D.W1 and

no document was marked. On perusal of the oral and documentary evidence, the trial Court acquitted the respondent for the offences punishable under Section 138 of NI Act. Aggrieved by the same the present appeal has been preferred.

4. The learned counsel for the appellant submitted that the cheque was issued towards the balance amount for the goods supplied by the appellant. The respondent also did not deny his signature and issued the cheque. Therefore, the appellant discharged his initial burden as contemplated under Section 138 of the NI Act. Even then, the trial Court without considering the above facts and circumstances, mechanically acquitted the respondent. The respondent categorically admitted the business transaction between them and also admitted the liability of Rs.8,84,201/- as on 15.10.2011. Since the respondent failed to rebut the presumption, the trial Court ought not to have acquitted the respondent.

5. Heard both sides and perused the materials available on record.

6. On perusal of the records, it is revealed that the specific case of the appellant was that he supplied pesticides and insecticides to the respondent for which the respondent owes to pay a sum of Rs.9,49,752/-. In order to repay the said amount, the respondent issued a cheque. After receipt of the statutory

notice, the respondent issued a reply notice which was marked as Ex.P6. On perusal of Ex.P6 it is revealed that the cheque was issued as a security purpose in the year 2010. The respondent used to settle the dues within 15 days from the date of the dues. The cheque which was issued for security purpose, was presented for collection and and the appellant initiated the proceedings under Section 138 NI Act. Therefore, the cheque was not issued for any legally enforcible debt.

7. The appellant was examined as P.W.1. On perusal of deposition of P.W.1, revealed that he categorically admitted that the cheque was issued in the year 2010 and it was presented for collection on 12.12.2011. Therefore the cheque was issued for the purpose of security at the time of business transaction. The account ledger of the appellant was marked as Ex.P1. Accordingly the respondent owe to pay a sum of Rs.9,49,752/- and after deducting a sum of Rs.65,551/-, a sum of Rs.8,84,201/- was the net balance to be paid on or before 15.10.2011. , the specific case of the respondent was that there was no due and the respondent did not pay any amount. However, the appellant presented the cheque which was issued for security purpose for the alleged balance. If at all there was any balance, the appellant ought to have approached the Civil Court for appropriate relief as against the respondent.

8. When the appellant categorically admitted that the cheque was issued for the purpose of security, it cannot be presented for collection. Therefore, the appellant failed to prove his case to convict the respondent for the offence punishable under Section 138 NI of Act. That apart, the respondent categorically rebut the presumption and also examined himself as D.W.1. Hence, the trial Court rightly convicted the respondent. This Court finds no illegality or infirmity in the order passed by the trial Court.

9. Accordingly, this Criminal Appeal is dismissed. No costs.

19.06.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Interned : Yes
bkn

G.K.ILANTHIRAIYAN, J.

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To

1.The Metropolitan Magistrate Court, Fast Track Court No.I, Egmore, Allikulam

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