



WEB COPY



CrI.A.No.960 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2025

CORAM :

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

CrI.A.No.960 of 2025

Kannammal

... Appellant

Vs

P.Jeevapriyan

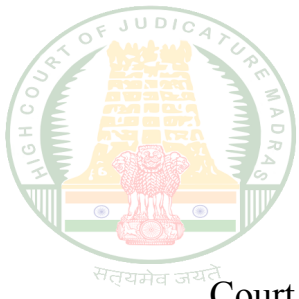
... Respondent

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C., pleaded to set aside the acquittal in the judgment dated 02.05.2024 made in C.C.No.599 of 2016 on the file of the Judicial Magistrate, Fast Track Court No.I, Coimbatore and punish the respondent/accused for the offence committed by him with order of payment of compensation to the appellant/complainant by imposing fine under Section 357 of Cr.P.C.

For Appellant : Mr.A.Swaminathan

JUDGMENT

This Criminal Appeal has been preferred as against the judgment dated 02.05.2024 passed by the learned Judicial Magistrate, Fast Track



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Court No.I, Coimbatore in C.C.No.599 of 2016, thereby acquitting the respondent for the offence punishable u/s 138 of Negotiable Instruments Act (in short 'the NI Act').

2. The appellant has lodged a complaint against the respondent for the offence punishable u/s 138 of the NI Act alleging that the respondent is a tenant of the appellant for two years. During the time, she came to know that the respondent is working in Anna University as a driver. In order to obtain a job for the appellant's daughter to the post of Assistant Professor, the respondent received a sum of Rs.10,00,000/-, however he was not able to secure a job and thereby, he returned a sum of Rs.6,50,000/- to the appellant by holding the remaining amount. When the appellant demanded the balance amount, he informed the appellant that the land that was intended to be sold has been mortgaged for a sum of Rs.1,50,000/- and if that Rs.1,50,000/- was paid by the appellant to release the mortgage, that land would be sold by him and the entire amount of Rs.5,00,000/- would be repaid by him within one month. Agreeing to the request made by the respondent, the appellant lent a sum



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of Rs.1,50,000/- to the respondent on 10.01.2014, but not repaid the same in time. Thereafter, he issued a cheque bearing No.893817 dated 18.02.2014 drawn on State Bank of India, G.C.T. Branch for a sum of Rs.1,50,000/- on 10.02.2014. At the instruction of the respondent, the appellant presented the cheque for collection on 11.04.2014 and the same was returned dishonoured with the endorsement “Funds Insufficient”. Subsequently, the respondent repaid Rs.1,50,000/- to the appellant, thereby no legal action was taken for dishonour of that cheque. Thereafter, the balance amount was Rs.3,50,000/-. Again, the respondent requested the appellant to pay a sum of Rs.2,00,000/- to release the mortgage and the same was paid by the appellant. When the same was demanded by the appellant, the respondent had issued cheque bearing No.893919 dated 10.12.2015 drawn on State Bank of India, G.C.T. Branch for a sum of Rs.2,00,000/-. At the instruction of the respondent, the appellant had presented the cheque for collection on 27.04.2016 and the same was returned dishonoured for the reason “Funds Insufficient”. After causing the statutory notice, the appellant filed a complaint u/s 138 of the NI Act.



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3. On the side of the appellant, P.W.1 was examined and Ex.P1 to Ex.P4 were marked. On the side of the accused, D.W.1 was examined and Ex.D1 to Ex.D5 were marked. On perusal of the oral and documentary evidence, the Trial Court found the respondent not guilty and acquitted him of the charges u/s 138 of the NI Act. Aggrieved by the same, the present appeal is filed.

4. The learned counsel for the appellant would submit that the respondent did not deny the issuance of cheque and the signature found in the cheque. Further, he submitted that immediately after presentation of cheque, the respondent caused notice. In his cross-examination, the respondent categorically admitted the borrowal amount. Hence, the appellant had discharged initial burden as contemplated u/s 138 of NI Act. Even then, the Trial Court mechanically acquitted the respondent, which is *per se* unsustainable. Accordingly, he prays for allowing the appeal.

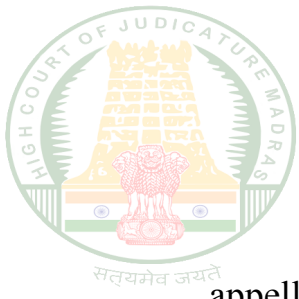


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5. Heard the learned counsel appearing for the appellant and also perused the materials available on record.

6. On a perusal of records, it was revealed that the appellant is an advocate and the respondent is a tenant in her house. Initially, he borrowed a sum of Rs.1,50,000/- and issued a cheque, which was returned dishonoured. After receipt of the statutory notice caused by the appellant, the respondent settled the cheque amount. At the time of borrowal, he issued two cheques. After settling the said amount, when the respondent asked for return of cheques, the appellant submitted that it was in the court case. Thereafter, the second cheque was misused by the appellant for initiating proceedings u/s 138 of NI Act. In fact, the respondent caused notice, dated 30.01.2026, which was marked as Ex.D.2. On a perusal of the said notice, it was revealed that the respondent had categorically rebutted the presumption that the cheque was issued for security purpose at the time of borrowal of loan to the tune of Rs.1,50,000/-. Even after returning the said amount, the cheques were not returned to the respondent. That apart, even according to the



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appellant, initially, the respondent had borrowed only a sum of Rs.1,50,000/- and thereafter, it was repaid. Even before that, he received a sum of Rs.10,00,000/- for securing job. Admittedly, the respondent was working as a driver in Anna University. The appellant and her husband being advocate, believing the words of the driver of Anna University, handed over a sum of Rs.10 lakhs is unbelievable. The respondent borrowed Rs.1,50,000/- from the appellant and the same was repaid after receipt of the statutory notice. Therefore, the respondent had categorically rebutted the presumption arise u/s 118 and 139 of NI Act. However, the appellant failed to prove that the cheque was issued for legally enforceable debt. Therefore, no offence u/s 138 of NI Act is made out against the respondent. Hence, the Trial Court rightly acquitted the respondent of the offence u/s 138 of NI Act.

7. In view of the above, this Court finds no infirmity or illegality in the Judgment dated 02.05.2024 made in C.C.No.599 of 2016 on the file of the learned Judicial Magistrate, Fast Track Court No.I, Coimbatore.



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8. Accordingly, this Criminal Appeal stands dismissed.

16.07.2025

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

The Judicial Magistrate, Fast Track Court No.I, Coimbatore.



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G.K.ILANTHIRAIYAN, J.

sp

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