



Crl.A.No.803 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2025

CORAM:

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

Crl.A.No.803 of 2025

C.Ramesh

... Appellant

Vs.

S.Mahalingam

... Respondent

PRAYER: Criminal Appeal filed under Section 419(4) of BNSS, 2023, praying to set aside the order of acquittal dated 28.04.2025 in CC.No.5124 of 2015 on the file of the XXVII Metropolitan Magistrate (Fast Track Court for NI Act Cases) and convict the respondent under Section 138 of the Negotiable Instruments Act.

For Appellant : Mr.N.Ganesh

JUDGMENT

This criminal appeal has been preferred against the judgment dated 28.04.2025 passed in CC.No.5124 of 2015 on the file of the XXVII Metropolitan Magistrate (Fast Track Court for NI Act Cases), Saidapet, Chennai, thereby acquitting the respondent for the offence punishable under Section 138 of NI Act.

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



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accused for the offence punishable under Section 138 of NI Act. It was alleged in the complaint that the respondent borrowed a sum of Rs.8,00,000/- from the appellant for his urgent business expenses and towards repayment of the said amount, the respondent issued cheque on 06.03.2014 and the same was presented for collection. However, it was returned dishonoured for the reason 'no such account'. After causing statutory notice, the complaint was lodged and the same was taken cognizance by the trial court.

3. On the side of the appellant, he had examined himself as PW1 and marked Ex.P1 to Ex.P6. On the side of the respondent, no one was examined, however he had marked Ex.D1 to Ex.D4. On perusal of oral and documentary evidences, the trial court found the respondent not guilty for the offence punishable under Section 138 of NI Act and acquitted him. Aggrieved by the same, the present criminal appeal has been preferred by the complainant.

4. The learned counsel for the appellant would submit that though the appellant discharged his initial burden as contemplated under Section 138 of NI Act, the respondent failed to rebut the same. However,



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the trial court mechanically acquitted the respondent for the reason the appellant failed to prove the case. He further submitted that the respondent categorically admitted his signature found in the cheque and also issuance of cheque. But the trial court concluded that the time itself barred one and the cheque was not issued for any legally enforceable debt.

5. Heard, the learned counsel for the petitioner and perused, all the materials placed before this Court.

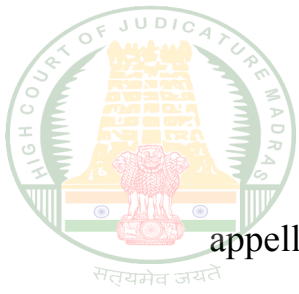
6. On perusal of records, it is revealed that the appellant did not even whisper about the date of the borrowal by the respondent in his statutory notice as well as the complaint. Only in the cross examination, the appellant stated that from the year 2007 to 2010, on various dates, the respondent borrowed amount. After 2010, on three occasions, the respondent borrowed amount. However, after March 2012, the respondent failed to pay any interest. When the respondent failed to pay any interest and committed default, the appellant could not have lent any money thereafter. In order to save limitation, the appellant extended the date of borrowal even after 2010. Even assuming that the respondent



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borrowed loan from the appellant from the year 2007 to 2010, the cheque was issued only in the year 2014. Therefore, the debt itself is time barred one. Hence, the cheque was not issued for any legally enforceable debt. Further, the respondent also rebutted the presumption in respect of source of income of the appellant and his financial capacity to lend such a huge amount of Rs.8,00,000/-. Therefore, the respondent categorically rebutted the presumption under Sections 118 and 139 of NI Act. However, the appellant failed to prove that the cheque was issued for legally enforceable debt.

7. That apart, on receipt of the statutory notice, the respondent issued reply notice on 07.07.2014, which was marked as Ex.P6. On perusal of the reply notice, it is revealed that in the year 2006, the appellant was Marketing Representative for Pidilite Industries Limited. The respondent was a distributor for the product of Pidilite Industries Limited CP Division from the year 2006 to 2008 and from 2008 to 2010. His wife was proprietrix for the distributorship. During that period, the respondent made respective payments for the bills to Pidilite Industries Limited by cheques through the appellant who was Marketing Representative for Coimbatore. Those cheques were misused by the



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appellant by presentation for collection. Though the respondent, on several occasions, demanded the appellant to return the cheques, the appellant failed to return the same and he also changed his phone number, address and all communication routes. Therefore, the respondent did not deny the signature found in the cheque and issuance of the cheque. The cheque was not issued for any legally enforceable debt. As such, the trial court rightly acquitted the respondent and this Court finds no infirmity or illegality in the impugned judgment.

8. In view of the above discussion, this criminal appeal stands dismissed.

04.07.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.



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To
The XXVII Metropolitan Magistrate (Fast Track Court for NI Act Cases),
Saidapet, Chennai

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