



Crl.A.No.885 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2025

CORAM

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

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A.Sathish Sharma Appellant

Vs

S.Sumathi Respondent

PRAYER : Criminal Appeal has been filed under Section 419 of Bharatiya Nagarik Suraksha Sanhita, 2023, praying to set aside the order of acquittal passed by the Hon'ble XXVI Metropolitan Magistrate Court at Egmore in STC No.2720 of 2023 dated 06.06.2024 and to allow the Criminal Appeal filed.

For Appellant : Mr.V.Babu

JUDGMENT

This Criminal Appeal has been filed challenging the Judgment dated 06.06.2024 passed in STC No.2720 of 2023 by the XXVI Metropolitan Magistrate Court, Egmore, Chennai, thereby dismissing the complaint filed by the appellant and acquitted the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act.

2. The appellant, who is the complainant, lodged a complaint against

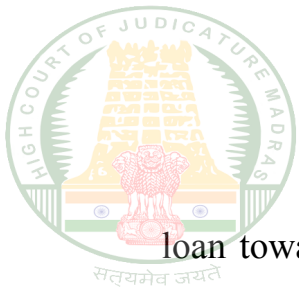


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the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act. It is alleged that the respondent borrowed a sum of Rs.11,09,756/- on 11.03.2022 and issued a cheque on the same day. The respondent also assured to repay the same on or before 18.03.2021. However, the respondent failed to repay the said amount and as such, the appellant presented the cheque for collection. However, the the said cheque was returned dishonoured with the endorsement “Drawer's Signature Differs”. After causing a statutory notice, the appellant filed the present complaint.

3. On the side of the appellant, he examined himself as P.W.1 and marked Ex.P1 to P5. On the side of the respondent, she examined herself as D.W.1 and marked Exs.D1 to D3. On perusal of the oral and documentary evidence, the Trial Court found the respondent not guilty of the offence punishable under Section 138 of the Negotiable Instruments Act and acquitted him. Aggrieved by the same, the present Criminal Appeal has been filed.

4. The learned counsel appearing for the appellant submitted that the specific stand taken by the respondent was that the cheque had been obtained for KYC purposes. However, no cheque is required to be given for availing a



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loan towards KYC purpose. The respondent did not deny the issuance of the cheque and also the signature found therein. Hence, the appellant had discharged the initial burden of proof as contemplated under Section 138 of the Negotiable Instruments Act. Even then, the Trial Court mechanically acquitted the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act.

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

6 A perusal of the records reveals that the specific case of the appellant is that on 11.03.2021, the respondent borrowed a sum of Rs.11,09,756/-. It is noted that no person can borrow the decimal amount. Further, except the cheque, no other document was produced by the appellant to substantiate the loan transaction. According to the appellant, the respondent had assured to repay the amount on or before 18.03.2021 and immediately thereafter, the cheque was presented for collection. Further, he categorically admitted in the cross examination that he had purchased the property from the respondent for a sum of Rs.26,89,756/-, for which he had mortgaged the



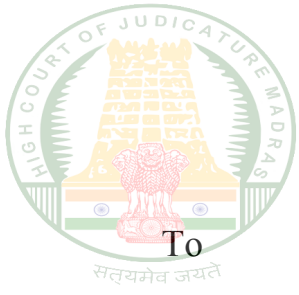
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property and availed a loan from Punjab National Bank. When the appellant had borrowed such a huge amount for the purchase of the property, he was not in a financial position to lend such a huge amount of Rs.11,09,756/-, that too in such an exact decimal figure. Therefore, the respondent categorically rebutted the presumption that the cheque was not issued for any legally enforceable debt. However, the appellant failed to prove that the cheque was issued for any legally enforceable debt. Therefore, the Trial Court, rightly dismissed the complaint filed by the appellant and acquitted the respondent.

7. In view of the above, this Court finds no infirmity or illegality in the Judgment dated 06.06.2024 passed in STC No.2720 of 2023 by the XXVI Metropolitan Magistrate Court, Egmore, Chennai. Accordingly, this Criminal Appeal stands dismissed.

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Speaking order/Non-speaking order
Index :Yes/No
Internet :Yes/No
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To

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The XXVI Metropolitan Magistrate,
Egmore, Chennai.

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