



Crl.A.No.683 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2025

CORAM:

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

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M/s.Sree Gokulam Chit and Finance Co.(P) Limited,
Rep. by its Vice Chairman V.C.Praveen
Sree Gokulam Towers,
No.66/356, Arcot Road,
Kodambakkam, Chennai – 600 024.

.... Appellant

Vs

K.Dhanapal

.... Respondent

Prayer: Criminal Appeal filed under Section 419 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and Judgment acquitting the respondent/accused in STC No.1873 of 2022 dated 15.04.2025 passed by the VIII Metropolitan Magistrate, George Town, Chennai and set aside the same.

For Appellant : Mr.R.Thamizharasan
for Mr.L.Rajasekar

JUDGMENT

This Criminal Appeal has been preferred as against the Judgment dated 15.04.2025 passed in STC No.1873 of 2022 on the file of the VIII Metropolitan Magistrate, George Town, Chennai, thereby acquitted the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act.



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2. The appellant is the complainant and the respondent is the accused in the complaint lodged by the appellant for the offence punishable under Section 138 of the Negotiable Instruments Act. The case of the appellant is that one R.Balachandar was a subscriber to the chit and after successfully bidding the chit, the chit amount was disbursed to him. However, the said R.Balachandar defaulted in the payment of monthly instalments. As such, the respondent, who stood as a guarantor, issued a cheque for a sum of Rs.1,16,100/-. Upon default by the subscriber, the appellant presented the said cheque for collection. However, it was returned dishonoured with the endorsement “kindly contact drawer/drawee bank”. Thereafter, the appellant issued a statutory notice to the respondent and lodged a complaint under Section 138 of the Negotiable Instruments Act.

3. On the side of the complainant/appellant, P.W.1 was examined and Exs.P1 to P6 were marked. On the side of the respondent, D.W.1 was examined and Exs.R1 & R2 were marked. On perusal of the oral and documentary evidence, the Trial Court found the petitioner not guilty of the offence punishable under Section 138 of the Negotiable Instruments Act and acquitted him. Aggrieved by the same, the present appeal has been filed.

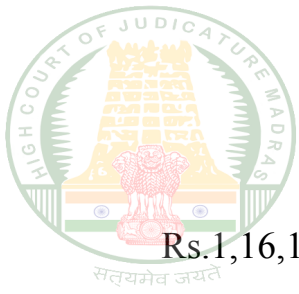


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4. The learned counsel appearing for the appellant would submit that the respondent categorically admitted the issuance of the cheque and also the signature therein. He never denied the signature as well as the issuance of the cheque. Therefore, the appellant had discharged the initial burden of proof as contemplated under Section 138 of the Negotiable Instruments Act. Though, such presumption can be rebutted by the respondent under Sections 118 and 139 of Negotiable Instruments Act, the respondent failed to rebut the same in the manner known to law. 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, even according to the case of the prosecution, the respondent stood as surety for one of the chit subscribers, viz., R.Balachandar. The prize amount was disbursed only to the said R.Balachandar, for which the respondent had issued a cheque for a sum of



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Rs.1,16,100/-. Therefore, there was no consideration was passed in favour of the respondent. There was no privity of contract between the appellant and the respondent herein. After receipt of the statutory notice, which was marked as Ex.P3, the respondent issued a detailed reply notice dated 07.06.2022 and the same was marked as Ex.R1. The specific case of the respondent is that the cheque was not issued for any legally enforceable debt. In fact, the respondent was also examined as D.W.1. Hence, it is evident that the respondent has categorically rebutted the presumption under Section 118 and 139 of the Negotiable Instruments Act. Further, the respondent did not execute any agreement in favour of the appellant to act as a guarantor for the chit transaction between the appellant and the said R.Balachandar.

7. That apart, the respondent had also filed a complaint as against the Branch Manager. Since no steps have been taken to register an FIR, the respondent was constrained to file a petition under Section 156(3) of Cr.P.C before the XV Metropolitan Magistrate. The same was allowed and the order was marked as Ex.R2. Therefore, the Trial Court rightly acquitted the respondent.



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8. In view of the above, this Court finds no infirmity or illegality

in the Judgment dated 15.04.2025 passed in STC No.1873 of 2022 on the file of the VIII Metropolitan Magistrate, George Town, Chennai. Accordingly, this Criminal Appeal stands dismissed.

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Index : Yes/No

Internet : Yes/No

Speaking/Non Speaking order

Lpp

To

The VIII Metropolitan Magistrate,
George Town, Chennai.



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G.K.ILANTHIRAIYAN. J,

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