IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2025

CORAM:

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

Crl.A.No.1215 of 2025

V.Senthilkumar ... Appellant

Vs.

Ramachandran ... Respondent

PRAYER:

Criminal Appeal filed under Section 378 of Cr.P.C., praying to set aside the judgment of acquittal passed in STC.No.104 of 2023 dated 13.03.2024 on the file of the Judicial Magistrate(Fast Track) Court, at Attur, Salem District.

For Appellant : Mr.A.Rajakumar

JUDGMENT

This criminal appeal has been preferred against the judgment of acquittal passed in STC.No.104 of 2023 dated 13.03.2024 on the file of the Judicial Magistrate(Fast Track) Court, at Attur, Salem District, thereby dismissed the complaint filed for offence punishable under Section 138 of NI Act and acquitted the respondent.

2. The appellant lodged complaint against the respondent for the offence punishable under Section 138 of NI Act alleging that for urgent expenditures, he borrowed loan from the year 2021 to 2022 to the tune of Rs.5,00,000/- and thereafter Rs.5,00,000/- and a sum of Rs.10,00,000/- by instalments. When the appellant requested to repay the said amount, the respondent stated that if another Rs.5,00,000/- was given, he will return the entire amount. Therefore, the appellant had totally lent a sum of Rs.25,00,000/- to the respondent as loan. However, the respondent repaid only a sum of Rs.2,00,000/- and for the remaining amount, he issued a cheque and the said cheque was presented for collection. However, it was returned for the reason 'payment stopped by the drawer'. After issuance of statutory notice, complaint was lodged and the same was taken cognizance by the trial court.

3. In order to prove the complaint, the appellant had examined PW1 and marked Ex.P1 to Ex.P8. On the side of the respondent, no one

was examined and no documents were produced. On perusal of oral and documentary evidences, the trial court found the respondent not guilty and dismissed the complaint for the offence punishable under Section 138 of NI Act.

4. The learned counsel for the appellant would submit that though the respondent failed to rebut the presumption, the trial court acquitted the respondent without any reason.

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

6. On perusal of records, it is revealed that on receipt of statutory notice, the respondent issued reply notice which was marked as Ex.P6, wherein it was stated that he had borrowed a sum of Rs.50,000/- as loan on 26.09.2021, for which the respondent issued two signed blank cheques as security. Subsequently, the appellant had lent a sum of Rs.2,88,000/- on several occasions to the respondent. Thereafter, the respondent duly paid interest and also subsequently paid the entire loan amount to the tune of Rs.5,50,000/- along with interest of Rs.3,70,000/-.

Thereafter, the cheques were misused by presenting the same for collection. On receipt of reply notice, the appellant did not send any rejoinder. During the trial, the appellant was examined as PW1. During his cross examination, he categorically admitted that he received a sum of Rs.6,19,000/- from the respondent. However, he stated that the said amount is for some other transaction. On perusal of the complaint, it is revealed that though the appellant had lent a sum of Rs.25,00,000/-, he did not receive any document from the respondent as security. No prudent person would lend such huge amount, that too without any security document. He did not even whisper the date of the alleged borrowal by the respondent. Therefore, by way of reply notice and by way of detailed cross examination, the respondent rebutted the presumption as contemplated under Sections 118 and 139 of NI Act. Even then, the appellant failed to prove that the cheque was issued for legally enforceable debt. Therefore, the cheque was not issued for any legally enforceable debt since the appellant failed to prove the lending of huge loan amount of Rs.25,00,000/-. Hence, the trial court rightly acquitted the respondent and this Court finds no infirmity or illegality in the impugned judgment.

7. Accordingly, this criminal appeal is dismissed.

19.08.2025

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

To

The learned Judicial Magistrate(Fast Track) Court, at Attur, Salem District.

G.K.ILANTHIRAIYAN, J.

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