IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2025

CORAM

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

Crl.A.No.931 of 2025

Nathiya ..... Appellant

Vs

M.Kamalakannan ..... Respondent

PRAYER : Criminal Appeal has been filed under Section 378 of the Code of Criminla Procedure, praying to set aside the Judgment dated 07.04.2025 passed by the Judicial Magistrate, Thiruvottiyur, Chennai – 600 019 in STC No.342 of 2020.

For Appellant : Mr.S.Balaji

JUDGMENT

This Criminal Appeal has been filed challenging the Judgment dated 07.04.2025 passed in STC No.342 of 2020 by the Judicial Magistrate, Thiruvottiyur, 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 is the complainant, who lodged a complaint against

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.2,00,000/- in the month of August, 2015 and assured to repay the same along with interest at the rate of 24% per annum. However, the respondent paid the interest upto December 2015. Thereafter, he failed to pay both the interest and principal amount. In the year 2020, the respondent issued a cheque in order to repay the said loan amount. When the said cheque was presented for collection, it was returned dishonoured with the endorsement “Funds Insufficient”. After causing a statutory notice, the appellant filed a complaint, which was taken cognizance by the Trial Court in STC No.343 of 2020.

3. On the side of the appellant, she had examined as P.W.1 and marked Exs.P1 to P7. On the side of the respondent, no witness was examined and no document was marked. 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 would submit that the Trial Court dismissed the complaint only on the ground that it was barred by

limitation. The loan was borrowed in the year 2015 and the cheque was issued in the year 2020. He further relied on Section 25(3) of the Contract Act, asserting that the issuance of the cheque constituted a clear promise to repay the loan amount. Therefore, it cannot be said that the said cheque was not issued for legally enforceable debt.

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

6. A perusal of the records reveals that, though the respondent admitted the issuance of the cheque and found the signature therein, it was issued only in the year 2020 for the loan availed by the respondent in the year 2015. Therefore, the debt itself is barred by limitation. In fact, after borrowal of the loan, there was an enmity between the appellant and the respondent on 26.08.2020. It is also settled that a cheque constitutes a bill of exchange. Article 35 under the Schedule of the Limitation Act 1963, would fix the period of limitation as 3 years, if the payment is made through a bill of exchange or a promissory note and on demand, unless and until there is anything in writing to postpone the right to sue. Therefore, as per Article 31 of the Limitation Act, 1963, a person would loose her right to sue, if a period of three years from the

date of his demand lapses. Hence, the Trial Court rightly dismissed the complaint.

7. In view of the above, this Court finds no infirmity or illegality in the Judgment dated 07.04.2025 passed in STC No.342 of 2020 by the Judicial Magistrate, Thiruvottiyur. Accordingly, this Criminal Appeal stands dismissed.

15.07.2025
(2/2)

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

To

The Judicial Magistrate,
Thiruvottiyur.

G.K.ILANTHIRAIYAN, J.

Lpp

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