IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2025

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

Crl.A.No.1040 of 2025

K.Gunasekar .... Appellant

Vs

K.Prabakaran .... Respondent

PRAYER : Criminal Appeal has been filed under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to set aside the judgment in S.T.C.No.3493 of 2024 passed by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore @ Allikulam, dated 06.03.2025 and convicted the respondent/accused with award of compensation under Section 395 of BNSS.

For Appellant : Mr.R.Thirumoorthy
For Respondent : Mr.K.Balasubramaniam

JUDGMENT

This Criminal Appeal has been filed challenging the Judgment dated 06.03.2025 passed in STC No.3493 of 2024 by the Metropolitan Magistrate, Fast Track Court No.II, Egmore @ Allikulam, 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 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 induced the appellant to invest in share trading by assuring him of huge profits. Believing the words uttered by the respondent, the appellant invested a sum of Rs. 35,00,000/- by way of bank transfer in favour of the respondent. However, the respondent neither paid any interest nor repaid the principal amount. After repeated request made by the appellant, the respondent issued three cheques, each for a sum of Rs.10,00,000/-. When the said cheques were presented for collection, they were returned dishonoured with the endorsement "Funds Insufficient". After causing a statutory notice, the appellant filed a complaint under Section 138 of the Negotiable Instruments Act.

3. On the side of the 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.D1 and D2 were marked.. On perusal of the oral and documentary evidence, the Trial Court found the respondent not guilty of the offence under Section 138 of the Negotiable Instruments Act and accordingly 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 respondent categorically admitted the issuance of the chequed as well as the

signature found therein. Further, the respondent filed to rebut the presumptions as contemplated under Sections 118 and 139 of the Negotiable Instruments Act. Even then, the Trial Court acquitted the respondent. He further submitted that during the cross examination, D.W.1 categorically admitted that WhatsApp messages from his wife disclosed that he had admitted the liability. Though the said messages were marked as Ex.P6 through D.W.1, the Trial Court failed to consider the same.

5. Per contra, the learned counsel appearing for the respondent would submit that the appellant, who was examined as P.W.1, categorically admitted during his cross examination that whatever the amount had been invested by the appellant was returned through his bank accounts. The respondent, who was examined as D.W.1, produced his bank statements, which were marked as Ex.D1 and D2. A perusal of the said documents reveals that a sum of Rs.21,90,000/- had been deposited on various dates in favour of the appellant. Therefore, the Trial Court rightly dismissed the complaint on the ground that the alleged cheques were not issued for any legally enforceable debt. Hence the Judgment of acquittal does not warrant any interference by this Court.

6. Heard the learned counsel appearing for the appellant and perused

the materials available on record.

7. A perusal of the records reveals that the specific case of the appellant is that he transferred a sum of Rs.35,00,000/- in favour of the respondent, in order to invest the said amount in the share business. However, the respondent did not repay the said amount and also failed to share the profit. It is the case of the appellant that towards repayment of part of the said amount, the respondent issued two cheques, each for Rs.10,00,000/-. However, the appellant failed to produce any documents to show that a sum of Rs.35,00,000/- was transferred to the accounts of the respondent herein.

8. On the other hand, the specific defence was taken by the respondent was that he borrowed a sum of Rs.20,00,000/- from the appellant, for which the respondent issued two cheques as security purpose. Thereafter, he had repaid a sum of Rs.21,90,000/- through the appellant's two bank accounts viz.. ICICI bank & AXIS bank. In order to substantiate the same, he produced the statement of accounts, which were marked as Exs.D1 and D2. That apart, it was also categorically admitted by the appellant in his cross examination. Therefore, the respondent categorically rebutted the presumption under Section 118 and 139 of the Negotiable Instruments Act. But the appellant failed to

prove that the cheques were issued for any legally enforceable debts. Hence, the Trial Court rightly acquitted the respondent.

9. In view of the above, this Court finds no infirmity or illegality in the order dated 06.03.2025 passed in STC No.3493 of 2024 by the Metropolitan Magistrate, Fast Track Court No.II, Egmore @ Allikulam, Chennai. Accordingly, this Criminal Appeal stands dismissed.

23.07.2025

Index :Yes/No
Internet :Yes/No
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To

The Metropolitan Magistrate,
Fast Track Court No.II,
Egmore @ Allikulam, Chennai.

G.K.ILANTHIRAIYAN, J.
Lpp

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