



CrI.A.No.988 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2025

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CrI.A.No.988 of 2025

N.Rajasekaran

...Appellant

Vs.

R.Janaki

... Respondent

PRAYER: Criminal Appeal filed under Section 378 of Cr.P.C. to set aside the judgment and acquittal of the learned Judicial Magistrate at Uthagamandalam in S.T.C.No.895 of 2014 for the offence punishable under Section 138 of Negotiable Instrument Act, by its judgment dated 02.04.2018.

For Appellant : Mr.S.P.Pavanan

For Respondent : Mr.A.M.Rahamath Ali



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JUDGMENT

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This Criminal Appeal has been filed as against the judgment passed in STC No.895/2014 dated 02.04.2018 thereby acquitting the respondent for the offences punishable under Section 138 of NI Act.

2. The appellant lodged a complaint as against the respondent for the offences punishable under Section 138 of NI Act alleging that the respondent borrowed a sum of Rs.6,00,000/- on 01.05.2013 and in order to return the same, she issued post dated cheques. The same was presented for collection and returned for the reason “Funds insufficient”. After causing statutory notice, lodged complaint and the same was taken cognizance by the trial Court in S.T.C.No.895/2014.

3. On the side of the appellant he had examined P.W.1 and marked Exs.P1 to P5. On the side of the respondent she had examined D.W.1 to D.W.3 and marked Exs.D1 to D4. On perusal of the oral and documentary evidence, the trial court acquitted the respondent for the offence punishable under Section 138 of NI Act.



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4. The learned counsel for the appellant would submit that the respondent never denied her signature and also issuance of cheques. Hence the appellant had discharged his initial burden as contemplated under Section 138 of NI Act. Though the respondent failed to rebut the presumption, the trial Court mechanically acquitted her.

5. On perusal of records revealed that the appellant and the respondent are close relatives. The specific defense taken by the respondent was that she borrowed the money from the appellant during the year 2011 by issuing three cheques as security. Thereafter, she repaid the entire loan amount by installments as agreed by the appellant and for which she had also produced documents Exs. D1 to D3. In order to prove the same she had also examined D.W.1 to D.W.3. After repayment of the entire loan, the appellant did not return the cheques since they are close relatives. Thereafter, in the year 2013, the appellant misused the cheque and initiated proceedings under Section 138 of NI Act. Further, the respondent also proved that the appellant had no source of income to lend such a huge amount of Rs.6,00,000/- that too without any security purpose. Therefore, the respondent had categorically rebutted the presumption and even then, the appellant failed to



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prove that the cheque was issued for legally enforceable debt. Hence, the trial Court rightly dismissed the complaint and this Court finds no illegality or infirmity in the order passed by the trial Court.

6. Accordingly, this Criminal Appeal is dismissed.

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



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To
1. The Judicial Magistrate at Uthagamandalam



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G.K.ILANTHIRAIYAN, J.

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