



Crl.A.No.1298 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2025

CORAM

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

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C.Saravanan Appellant/Petitioner

Vs

R.Selvi Respondent

PRAYER : Criminal Appeal has been filed under Section 419 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to set aside the order of acquittal dated 07.02.2025 made in S.T.C.No.84 of 2023 on the file of the Judicial Magistrate, Fast Track Court No.1, Erode.

For Appellant : Mr.V.Anandhamoorthy

JUDGMENT

This Criminal Appeal has been filed against the order dated 07.02.2025 passed in S.T.C.No.84 of 2023 on the file of the Judicial Magistrate, Fast Track Court No.1, Erode, thereby dismissing the complaint filed by the appellant and acquitted the respondent for the offence punishable under Section 138 of Negotiable Instruments Act.

2. The appellant lodged a complaint against the respondent for



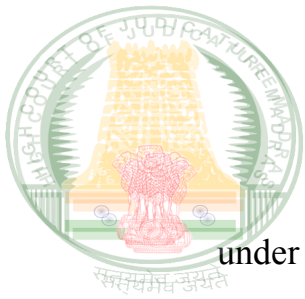
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the offence punishable under Section 138 of the Negotiable Instruments

Act, alleging that, on 04.12.2022, the respondent borrowed a sum of Rs.5,00,000/- from the appellant and subsequently, in order to repay the said amount, the respondent issued a cheque dated 04.01.2023. However, when the said cheque was presented for collection, it was returned with an endorsement “Exceeds Arrangement”. After issuing the statutory notice, the appellant lodged a complaint and the same has been taken cognizance by the Trial Court in S.T.C.No.84 of 2023.

3. On the side of the appellant, P.W1 was examined and Exs.P1 to P7 were marked. On the side of the respondent, D.W.1 & D.W.2 was examined and Ex.D1 was marked. On perusal of oral and documentary evidence, the Trial Court acquitted the respondent for the offence punishable under Section 138 of Negotiable Instruments Act. Aggrieved by the same, the present Criminal Appeal has been filed.

4.The learned counsel appearing for the appellant would submit that the respondent did not deny the issuance of cheque and also did not deny the signature found in the cheque. On receipt of the legal notice, though the respondent issued a reply notice, nothing was rebutted. Therefore, the appellant discharged his initial burden as contemplated



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under Section 138 of the Negotiable Instruments Act. However, respondent failed to rebut the presumption and the Trial Court acquitted the respondent.

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

6. The specific defence of the respondent through cross examination was that, she did not sign any cheque and she did not issue any cheque. The respondent never borrowed any amount from the appellant and he has borrowed only Rs.30,000/- from the appellant's wife on 26.07.2022 and at the time of borrowal, respondent had issued four unfilled blank signed cheques and also blank stamp papers. After repayment of the said amount, the respondent once again borrowed a sum of Rs. 48,000/- from the appellant's wife on 09.08.2022 and it was also repaid and even then, the appellant's wife did not return the cheques and stamp paper.

7. The learned counsel for the appellant submitted that the appellant had categorically proved the offence under Section 138 of the Negotiable Instruments Act by discharging the initial burden as



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contemplated under Section 138 of the Negotiable Instruments Act. The

respondent had also admitted the fact that the loan amount was borrowed from the appellant and failed to produce any evidence or documents to show that she repaid the loan amount. In fact, the respondent failed to rebut the statutory presumptions under Section 118 and 139 of Negotiable Instruments Act. Further, the respondent did not dispute her signature and issuance of the cheque. The only defence taken by the respondent was that the cheque had been issued for security purpose. Even then, the Trial Court mechanically acquitted the respondent, without properly appreciating the evidence on record.

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

9. On perusal of the records, it is revealed that the wife of the appellant was examined as PW1 and she has categorically deposed that the said amount was transferred to the account of the respondent. Further the respondent marked the statement of accounts of DW1 and it revealed that an amount of Rs.30,000/- was transferred to the respondent on 26.07.2022 and another sum of Rs.48,000/- was transferred to the



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respondent on 09.08.2022. Further, the respondent also proved that the

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cheques and stamp papers were issued at the time of borrowal of amount from the appellant's wife. Therefore, though the appellant had discharged his initial burden as contemplated under Section 138 of the Negotiable Instruments Act, the respondent had categorically rebutted the statutory presumption under Sections 118 and 139 of the Negotiable Instruments Act. Consequently, the burden shifted to the shoulder of the appellant to prove that the cheque was issued for any legally enforceable debt or liability. However, the appellant failed to substantiate that the cheque was issued towards any legally enforceable debt. Therefore, there was no liability on the part of the respondent to issue the cheque. Hence, the Trial Court rightly acquitted the respondent.

7. In view of the above, this Court finds no infirmity or illegality in the order dated 07.02.2025 passed in S.T.C.No.84 of 2023 on the file of the Judicial Magistrate, Fast Track Court No.I, Erode. Accordingly, this Criminal Appeal stands dismissed.

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Speaking order/Non-speaking order

Index :Yes/No

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Internet :Yes/No

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To

Judicial Magistrate, Fast Track Court No.1, Erode

G.K.ILANTHIRAIYAN, J.

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