



Crl.A.No.946 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 17.07.2025

Coram:

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

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A.Arumugam

...Appellant

Vs.

T.K.Periyasamy

...Respondent

Prayer:

Criminal Appeal filed under Sections 419(4) of BNSS Act to set aside the order of Acquittal in C.C.No.176 of 2021 on the file of the learned Judicial Magistrate, Kallakurichi, Kallakurichi District dated 30.05.2024.

For Appellant : Mr.R.Murugabharathi

ORDER

This appeal has been preferred as against Judgment passed in C.C.No.176 of 2021 on the file of the learned Judicial Magistrate, Kallakurichi, thereby acquitted the respondent for the offence under Section 138 of Negotiable Instruments Act.

2. The appellant is the complainant and lodged a complaint as against the



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respondent for offence under Section 138 of Negotiable Instruments Act alleging that the respondent borrowed a sum of Rs.15 Lakhs as hand loan and in order to repay the said amount, the respondent issued a cheque for a sum of Rs.15 Lakhs and when the same was presented for collection, it was returned for the reason 'drawer signature differs'. After causing statutory notice, the appellant filed a complaint. On the side of the appellant, two witnesses were examined as P.W.1 and P.W.2 and marked exhibits Ex.P.1 to P.4 and X.1 to X.4 . On the side of the respondent, three witnesses were examined as D.W.1 to D.W.3 and marked exhibits Ex.D.1 to D.5. On perusal of the oral and documentary evidence, the trial court found that the respondent was not guilty for offences under Section 138 of Negotiable Instruments Act and acquitted the respondent. As against the same, the appellant has preferred this Appeal.

3. The learned counsel for the appellant would submit that though the appellant had discharged his initial burden as contemplated under Section 138 of Negotiable Instruments Act, the respondent failed to rebut the same and the trial court passed an order acquitting the respondent, which requires interference in the hands of this Court.

4. Heard the learned counsel for the appellant and perused the documents



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placed on record.

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5. It is pertinent to point out that when the respondent is disputing the signature found in the cheque as it does not belong to him, the appellant ought to have proved the same, in the manner known to law, however, the appellant failed to prove the same. The trial court acquitted the respondent on the ground that the cheque was returned for the reason 'drawer signature differs'. That apart, the respondent had taken a specific stand by way of reply notice that he never borrowed any loan and did not issue any cheque in favour of the appellant. When it being so, the burden shifted on the shoulder of the appellant to prove that the cheque was issued by the respondent and it was issued for legally enforceable debt.

6. Besides the above, though the appellant duly received the reply notice, the appellant did not even whisper about the reply notice in his complaint. Further, the respondent categorically rebutted that the appellant had no source of income to lend such a huge amount of Rs.15 Lakhs, further more, it was lent without any security document and no prudent person would lend a sum of Rs.15



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Lakhs that too as a hand loan, without any security document. Further, after

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returning the cheque that too for the reason drawer signature differs, the appellant ought to have approached the respondent forgetting counter signature, however, the same has not been done. It shows that the cheque was not issued for any legally enforceable debt, hence, the trial court rightly dismissed the complaint and acquitted the respondent and this Court does not find any infirmity or illegality in the order passed by the trial court.

Accordingly, the present Appeal is dismissed and the order passed by the trial court in C.C.No.176 of 2021 dated 30.05.2024 stands confirmed.

17.07.2025

Index : Yes / No
Internet : Yes / No
Speaking Order / Non Speaking Order
ssd

To

1. The Judicial Magistrate,
Kallakurichi, Kallakurichi District
2. The Public Prosecutor,
High court, Madras



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G.K.ILANTHIRAIYAN, J.

ssd

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