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Crl.A.No.690 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.06.2025

CORAM

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

Crl.A.No.690 of 2025

D.Dhanasekaran

...Appellant

T.Pukazhenth

... Respondent

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C., praying to call for the records and set aside the judgment in CC.No.1092 of 2018 on the file of learned III Fast Track Court, Metropolitan Magistrate, Saidapet, Chennai dated 21.02.2024.

For Appellant : Mr.B.Thirumalai

JUDGMENT

This criminal appeal has been preferred against the judgment passed in CC.No.1092 of 2018 on the file of learned III Fast Track Court, Metropolitan Magistrate, Saidapet, Chennai dated 21.02.2024. thereby acquitted the respondent for the offences punishable under Section 138 of NI Act. The

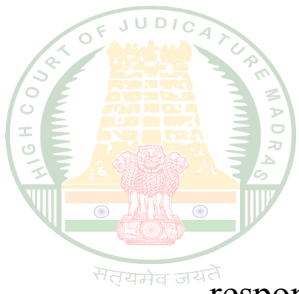


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2. The appellant is the complainant and the respondent is the accused in the said complaint lodged for the offence punishable under Section 138 of NI Act. It had been alleged in the complaint that the appellant was acquainted with the respondent for several years and as such, the respondent borrowed a sum of Rs.15,75,000/- as hand loan to meet out his personal commitments during the period of August 2015. In order to repay a partial amount towards the said liability, the respondent issued three cheques each for a sum of Rs.3,00,000/-. All the three cheques were presented for collection, however all were returned dishonored for the reason 'funds insufficient'. After causing statutory notice, the complaint was lodged.

3. On the side of the appellant, he had examined himself as PW1 and marked Ex.P1 to Ex.P6. On the side of the respondent, he had examined himself as DW1 and marked Ex.D1 to Ex.D8. On perusal of oral and documentary evidences, the trial court acquitted the respondent of the charge under Section 138 of NI Act. Aggrieved by the same, the present criminal appeal has been filed by the complainant.

4. The learned counsel for the appellant would submit that the



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respondent categorically admitted his signature and the issuance of the cheque. Therefore, the appellant had discharged his initial burden as contemplated under Section 138 of NI Act. The trial court only on the basis of Ex.D1 to Ex.D8, acquitted the respondent on the ground that there was some payment made by the respondent. Therefore, the trial court ought not to have acquitted the respondent.

5. Heard, the learned counsel appearing for the appellant and perused, all the materials placed before this Court.

6. On perusal of records, it is revealed that the respondent and the appellant were friends. The respondent is doing business from the year 1989 and in order to get profit, the appellant was asked to deposit some amount. Accordingly, he had deposited small amounts on various dates with the account of the respondent. For the said amount, the respondent also shared profit with the appellant on various dates. On perusal of Ex.D1 to Ex.D8, it is revealed that in various accounts of the complainant, the respondent had deposited amount. On payment of the first amount, the respondent issued several cheques for the purpose of



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security. While being so, the appellant presented three cheques as if the respondent borrowed huge amount of Rs.15,75,000/- on various dates and towards the repayment of the said amount, the respondent issued three cheques for a sum of Rs.3,00,000/- each. Therefore, ever after rebuttal of the presumption by the respondent, the appellant failed to prove his case by any material evidence or oral evidence. Further, the respondent categorically rebutted the presumption arising out of Sections 118 and 139 of NI Act. Hence, the trial court rightly acquitted the respondent and this Court finds no infirmity or illegality in the impugned order passed by the trial court.

7. In view of the above discussion, this criminal appeal is dismissed.

25.06.2025

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

The learned III Fast Track Court, Metropolitan Magistrate, Saidapet,
Chennai

G.K.ILANTHIRAIYAN, J.

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