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Crl.A.No.692 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.692 of 2025

K.Venkatesan

...Appellant

M.Raja

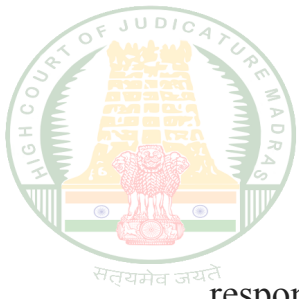
... Respondent

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C., praying to set aside the judgment of the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur, Kancheepuram District made in CC.No.29 of 2020 dated 08.04.2024 and convict the accused/respondent herein for the said offence.

For Appellant : Mr.M.Venkatesh

JUDGMENT

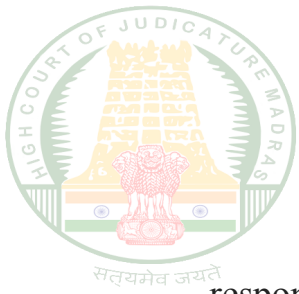
This criminal appeal has been filed challenging the judgment of the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur, Kancheepuram District made in CC.No.29 of 2020 dated 08.04.2024, thereby dismissed the complaint filed by the appellant for the offence punishable under Section 138 of NI Act and acquitted the



2. The appellant is the complainant and the respondent is the accused in the complaint lodged by the appellant for the offence punishable under Section 138 of NI Act. Due to acquaintance with the respondent, the appellant extended financial assistance to the respondent to meet his family commitments to the tune of Rs.50,000/-. In order to repay the same, the respondent issued a cheque and the same was presented for collection. However, it was returned dishonoured for the reason “alteration requires drawers authentication”. After causing statutory notice, the appellant filed the complaint.

3. On the side of the appellant, he was examined as PW1 and marked Ex.P1 to Ex.P4. On the side of the respondent, he examined himself as DW1 and marked Ex.D1 to Ex.D5. On perusal of oral and documentary evidences, the trial court found the respondent not guilty and dismissed the complaint. 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



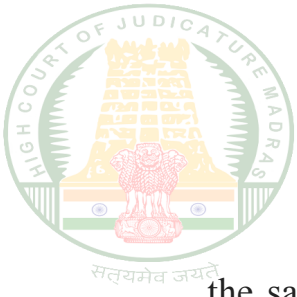
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respondent categorically admitted the issuance of the cheque and the signature of the cheque. Therefore, the appellant had discharged his initial burden as contemplated under Section 138 of NI Act. Even then, the trial court acquitted the respondent only on the basis of Ex.D1, which is the legal notice issued by the respondent. Statutory notice was issued on 30.11.2019, whereas Ex.D1 was issued on 22.09.2022. Therefore, it is only after-thought and even then, the trial court without considering the same, mechanically acquitted the respondent.

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

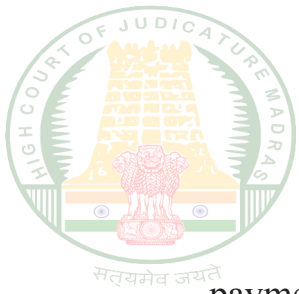
6. On perusal of records, revealed that on various dates, the respondent borrowed amount, that in total comes to Rs.50,000/-. The appellant failed to mention about the particular date of borrowal. Towards repayment of the said amount, the respondent issued a cheque and the same was presented for collection. However, it was returned with an endorsement 'alteration requires drawers authentication'. Therefore, the cheque, which was marked as Ex.P1 found some alteration. Therefore,



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the said alteration was not countersigned by the respondent and on that ground, the cheque was returned. Hence, the offence under Section 138 itself is not attracted since the cheque was not returned on the ground of 'funds insufficient' or any other reason to attract offence under Section 138 of NI Act. That apart, on perusal of Ex.D1 and on perusal of the cross examination of the appellant, it is revealed that the transaction between the appellant and the respondent started in the year 2009. Thereafter, it was stopped in the year 2017 itself.

7. In fact, the respondent borrowed loan from the Tamilnadu Industrial Investment Corporation, for which the appellant had given his property as collateral security. Further, the accused was advised to pay monthly instalments to the appellant herein. Thereafter, in the year 2015, the complainant had collected original deed from the respondent under mortgage for a sum of Rs.20,00,000/- and assured to return the same after payment of the loan amount obtained by the respondent from the Tamilnadu Industrial Investment Corporation. That apart, the appellant is in possession of unfilled cheques of the respondent as security purpose in the year 2016 and those were not returned to the respondent even after



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payment of the entire loan amount in the year 2017. Therefore, the respondent categorically rebutted the presumption arising under Sections 118 and 139 of NI Act. Hence, the trial court rightly found that there was no legally enforceable debt at the hands of the respondent and the cheque was not issued for any consideration. Therefore, this criminal appeal is liable to be dismissed.

8. Accordingly, this criminal appeal is dismissed.

25.06.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

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The learned Judicial Magistrate, Fast Track Court (Magisterial Level),
Alandur, Kancheepuram District

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