



*Crl.A.No.236 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2025

CORAM

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

**Crl.A.No.236 of 2023**

R.Sekar

... Appellant

Vs

A.Manivannan

...Respondent

**PRAYER :** Criminal Appeal has been filed under Section 372 of Criminal Procedure Code, to call for the records and set aside the impugned order/Judgment passed by the Learned Metropolitan Magistrate, Fast Track Court-III, Saidapet, Chennai in CC.12926 of 2009 in the Judgment dated 14.05.2019 and allow this Criminal Appeal.

For Appellant : Mr.S.S.Kumar

For Respondent : Mr.J.Jayabalan

**JUDGMENT**

This Criminal Appeal has been filed to set aside the impugned order/Judgment passed in CC.No.12926 of 2009 dated 14.05.2019 by the Learned Metropolitan Magistrate, Fast Track Court-III, Saidapet, Chennai, thereby acquitting the respondent from the offence punishable under Section 138 of Negotiable Instruments Act.

2. The appellant is the complainant and the respondent is the accused



*Crl.A.No.236 of 2023*

in the complaint lodged by the appellant in C.C.No.12926 of 2009 for the

offence punishable under Section 138 of Negotiable Instruments Act. The case of the appellant is that the respondent was running a petroleum outlet in the name and style of S.R.Agency as a dealership from the Indian Oil Corporation at GST Road, Mamandur, Kanchipuram District. However, the respondent was unable to manage the petrol bunk and approached the appellant, expressing his inability to continue the business. The appellant was interested to take over the management of the petrol bunk and agreed to pay a sum of Rs.5 Lakhs to the respondent. Accordingly, the appellant had paid the said amount and entered into a deed of management on 02.01.2007 for a period of 20 years. While being so, all of a sudden, the respondent caused a legal notice dated 10.10.2008 containing false allegations as against the appellant. Thereafter, the petrol bunk was closed and the appellant was forcibly evicted from the petrol bunk on 22.10.2008. Once again, the respondent caused another legal notice dated 01.11.2008, thereby levelling serious allegations as against the appellant. Therefore, the appellant demanded for repayment of Rs.5 Lakhs, which had been paid to the respondent. Apart from that, the appellant had also spent a substantial amount towards improvement of the petrol bunk. After negotiations, it was finally agreed by the respondent to pay a sum of Rs.29 Lakhs to the appellant and issued a cheque for the said amount. It was presented for



*Crl.A.No.236 of 2023*

collection and the same was returned dishonoured for the reason “Account Frozen” transaction not allowed. After causing statutory notice, filed a complaint.

3. On the side of the appellant, he had examined PWs.1 and 2 and marked Exs.P1 to P11. On the side of the accused, he was examined as DW.1 and marked Exs.D1 to D21. On perusal of oral and documentary evidences, the Trial Court, acquitted the respondent herein. Aggrieved by the same, the present appeal.

4. The learned counsel for the appellant would submit that the appellant discharged his initial burden as contemplated under Section 138 of Negotiable Instruments Act. Though the respondent failed to rebut the presumption, the Trial Court acquitted the respondent herein.

5. Heard both sides and perused the materials available on record.

6. A perusal of records revealed that the appellant was examined as PW.1. The statutory notice issued by the appellant was marked as Ex.P9. On receipt of the same, the respondent issued a reply notice, which was marked as



*Crl.A.No.236 of 2023*

Ex.P11. In order to rebut the statutory presumption, the respondent was

examined as DW.1 and marked Exs.D1 to D21. The case of the appellant is that he was entrusted with the management of the petrol bunk on payment of Rs.5 Lakhs. Thereafter, in order to improve and develop the petrol bunk, the appellant had spent a substantial amount. Finally, both had negotiations and the respondent agreed to repay a sum of Rs.29 lakhs and issued a cheque for the same.

7. It is a specific case of the respondent that he was granted dealership to operate the petroleum outlet under Indian Oil Corporation Ltd.,. With regard to the management of petrol bunk, the respondent had already issued legal notices dated 10.10.2008 and 01.11.2008 to the appellant, stating that by entering the Deed of Management, the appellant had colluded with one S.Rukmangathan. It was further alleged that the cheque books and other documents relating to M/s S.R.Agency were misused by handing over a cheque to the said S.Rukmangathan. The respondent categorically denied having received Rs.5 Lakhs from the appellant. Therefore, the cheque was not issued for any legally enforceable debt and there was absolutely no consideration received from the appellant herein.

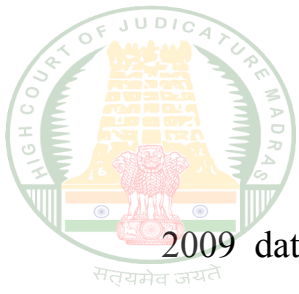


*Crl.A.No.236 of 2023*

8. Further, PW.1 had categorically deposed that he was appointed only as a Manager as per Ex.P1, the Deed of Management, in which there was not even a whisper about the payment of Rs.5 Lakhs. Further, as per the terms of Deed of Management, the appellant was not authorised to incur any expenditure for the development of the petrol bunk. Therefore, even according to the appellant, there is no evidence to establish the payment of Rs.5 Lakhs to the respondent herein. It is further alleged that a sum of Rs.29 Lakhs was arrived as future loss for the petrol bunk.

9. Therefore, there is absolutely no legal liability for the respondent to issue cheque for a sum of Rs.29 Lakhs. Even according to the appellant, the said amount was arrived towards uncertain future liability. Further, the appellant had acted as a Manager and used the cheque leaves of the respondent for purchase of petroleum.

10. Thus, it is clear that the alleged cheque was misused by the appellant and initiated proceedings under Section 138 of Negotiable Instruments Act. Therefore, the Trial Court had rightly acquitted the respondent for the offence punishable under Section 138 of Negotiable Instruments Act and this Court finds no infirmity or illegality in the order passed in CC.No.12926 of



*Crl.A.No.236 of 2023*

2009 dated 14.05.2019 by the Learned Metropolitan Magistrate, Fast Track

WEB COPY Court-III, Saidapet, Chennai.

11. Accordingly, this Criminal Appeal stands dismissed.

13.06.2025

Speaking order/Non-speaking order

Index :Yes/No

Internet :Yes/No

mn



WEB COPY



*Crl.A.No.236 of 2023*

To

The Metropolitan Magistrate, Fast Track Court-III,  
Saidapet, Chennai.



WEB COPY



*Crl.A.No.236 of 2023*

**G.K.ILANTHIRAIYAN, J.**

mn

Crl.A.No.236 of 2023

13.06.2025