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Crl.A.No.1250 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.08.2025

CORAM

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

Crl.A.No.1250 of 2025

Venkataraman

.....

Appellant

Vs

Christopher

.....

Respondent

Prayer: Criminal Appeal is filed under Section 419 of BNSS, 2023, to set aside the judgment of acquittal dated 24.06.2024 by the learned Principal District Munsif cum Judicial Magistrate, Gudalur in S.T.C.No.2935 of 2015.

For Appellant : Mr.K.Lavan

JUDGMENT

This appeal has been preferred as against the order dated 24.06.2024 made in S.T.C.No.2935 of 2015 on the file of the learned Principal District Munsif cum Judicial Magistrate, Gudalur, thereby dismissing the complaint and acquitted the respondent for the offence under Section 138 of NI Act.



Crl.A.No.1250 of 2025

2. The appellant filed a complaint against the respondent for the offence punishable under Section 138 of NI Act alleging that on 25.05.2015 the respondent borrowed a sum of Rs.13,75,000/- as hand loan from the appellant. In order to repay the said amount, the respondent issued a cheque on 27.06.2015 for the said sum and the same was presented for collection. However, it was returned dishonoured for the reason “Insufficient funds”. After causing statutory notice, the appellant lodged complaint against the respondent.

3. On the side of the appellant, he had examined P.W.1 to P.W.3 and marked Exs.P1 to P10. On the side of the respondent no one was examined and no documents were marked. On perusal of the oral and documentary evidence, the trial Court found the respondent not guilty and acquitted him for the offences punishable under Section 138 of NI Act. Aggrieved by the same, the present appeal has been preferred.

4. The learned counsel for the appellant would submit that the respondent never denied the issuance of cheque and also the signature found in the cheque. Therefore, the appellant had discharged his initial burden as contemplated under Section 138 of NI Act. Though the respondent failed to rebut the



Crl.A.No.1250 of 2025

presumption, the trial court mechanically acquitted the respondent.

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5. On perusal of the records it is revealed that the appellant was examined as P.W.1 and he had no acquaintance with the respondent before the borrowal of the money. Immediately after asking for a huge amount as loan on 15.05.2015, within 10 days, the appellant had lent a sum of Rs.13,75,000/- to the respondent that too without any security document from the respondent. No prudent person would lend such a huge amount without any security document. After a period of one month, the respondent issued a cheque for the said amount. Even on 21.07.2015 itself the respondent issued a legal notice to the appellant's son-in-law and daughter and the same were duly received. After receipt of the same, statutory notice was issued on 22.07.2015 to the respondent. In fact, after receipt of the statutory notice, the respondent also issued reply notice which was dated 05.08.2015 which is marked as Ex.P4.

6. The respondent categorically denied the entire borrowal from the appellant since the respondent never had any acquaintance with the appellant to borrow such a huge amount. There was a transaction between the appellant's son-in-law and the respondent. At the time of the said transaction, the alleged



Crl.A.No.1250 of 2025

cheque in the complaint as well as other cheques were handed over as security.

Even after return of the entire loan amount, the appellant's son-in-law and daughter failed to return back the cheques. Therefore, the respondent issued legal notice dated 21.07.2015 to the appellant's son-in-law and his daughter. Hence, by way of reply notice as well as detailed cross-examination, the respondent has categorically rebutted the presumption by preponderance of probabilities as contemplated under Section 118 and 139 of the NI Act. After rebutting the presumption, the burden shifts on the shoulder of the appellant to prove that the said cheque was issued for legally enforceable debt. However, the appellant fails to prove the same. Therefore, the trial Court has rightly acquitted the respondent and this Court finds no infirmity or illegality in the order passed by the trial Court.

7. Accordingly, this Criminal Appeal is dismissed.

18.08.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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Crl.A.No.1250 of 2025

To:

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1. The Principal District Munsif cum Judicial Magistrate, Gudalur.



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Crl.A.No.1250 of 2025

G.K.ILANTHIRAIYAN, J.

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Crl.A.No.1250 of 2025

18.08.2025