



WEB COPY



CrI.A.No.1270 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2025

CORAM:

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

CrI.A.No.1270 of 2025

Sasi

... Appellant

Vs.

M.Dhanasekaran

... Respondent

PRAYER: Criminal Appeal filed under Section 419 of BNSS, 2023, praying to call for the records of the trial court, to set aside the judgment of acquittal dated 01.08.2024 passed by the learned Judicial Magistrate No.2, Kancheepuram in CC.No.124 of 2023 and to convict the respondent/accused for the offence punishable under Section 138 of Negotiable Instrument Act, 1881.

For Appellant : Mr.G.Gokul

JUDGMENT

This criminal appeal has been preferred against the judgment of acquittal dated 01.08.2024 passed by the learned Judicial Magistrate No.2, Kancheepuram in CC.No.124 of 2023, thereby dismissing the complaint filed for the offences punishable under Section 138 of NI Act



CrI.A.No.1270 of 2025

and acquitted the respondent.

WEB COPY

2. The appellant lodged complaint against the respondent for the offence punishable under Section 138 of NI Act alleging that the respondent borrowed a sum of Rs.20,00,000/- as loan on 10.09.2022. Towards repayment of the said amount, he issued cheque dated 10.03.2023 and the same was presented for collection. However, it was returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, the appellant filed complaint and the same was taken cognizance by the trial court.

3. In order to prove the complaint, the appellant had examined himself as PW1 and marked Ex.P1 to Ex.P7. On the side of the respondent, he had examined DW1 and DW2 and no documents were marked. On perusal of oral and documentary evidences, the trial court found the respondent not guilty and acquitted him of the offence punishable under Section 138 of NI Act by dismissing the complaint. Aggrieved by the same, the present criminal appeal has been filed by the complainant.



CrI.A.No.1270 of 2025

4. The learned counsel for the appellant would submit that the respondent never denied the signature found in the cheque and the issuance of the cheque. Therefore, the appellant discharged his initial burden as contemplated under Section 138 of NI Act. Though the respondent had examined DW1 and DW2, he failed to rebut the presumption and even then, the trial court acquitted the respondent for the offence punishable under Section 138 of NI Act.

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

6. On perusal of records, it is revealed that the appellant had lent loan to the tune of Rs.20,00,000/- by way of cash, that too without any security document. The specific defence of the respondent was that the appellant was known to the respondent through one, Gnanasekar. The appellant also made deposit in his company. However, the said Gnanasekar insisted document for the purpose of security on behalf of the appellant. Thereafter, the cheque which was given in favour of the said Gnanasekar was misused by the appellant and the proceedings under Section 138 of NI Act was initiated. In fact, the respondent had also



CrI.A.No.1270 of 2025

WEB COPY

shown the bond and the cheque which were given for security purpose. It

is also substantiated by DW1 and DW2. Therefore, the respondent

categorically rebutted the presumption by preponderance of probabilities.

It creates doubt about the existence of a legally enforceable debt. Though

the respondent failed to issue reply notice, the respondent can rely on the

materials submitted by the appellant in order to raise such defence and it

is conceivable one and in some cases, the accused may not need to

adduce evidence. In the case on hand, the respondent adduced evidence

by himself and another as DW2. Even then, the appellant failed to prove

that the cheque was issued for any legally enforceable debt. The

appellant also failed to prove that he had lent a sum of Rs.20,00,000/-,

that too by way of cash as loan to the respondent. Therefore, the trial

court rightly acquitted the respondent and this Court finds no infirmity or

illegality in the impugned order.

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

19.08.2025

Index : Yes/No

Neutral citation : Yes/No

Speaking/non-speaking order

lok



WEB COPY



CrI.A.No.1270 of 2025

To

The learned Judicial Magistrate No.2, Kancheepuram



WEB COPY



Crl.A.No.1270 of 2025

G.K.ILANTHIRAIYAN, J.

lok

Crl.A.No.1270 of 2025

19.08.2025