



Crl.A.No.1283 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2025

CORAM

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

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C.Nagaraju

.....

Appellant

Vs.

Jayaprakashappa

.....

Respondent

Prayer: Criminal Appeal is filed under Section 419 of BNSS to set aside the order of acquittal passed by the learned Judicial Magistrate, Fast Track Court at Hosur, in STC No.182/2019 dated 05.07.2024 and punish the accused by convicting him.

For Appellant : Mr.S.R.R.Raaghavan



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JUDGMENT

WEB COPY This appeal has been preferred as against the order dated 05.07.2024 made in STC No.182/2019 on the file of the learned Judicial Magistrate, Fast Track Court at Hosur, thereby dismissing the petition filed under Section 138 of the NI Act.

2. The appellant lodged a complaint as against the respondent for the offence punishable under Section 138 of NI Act alleging that the respondent borrowed a sum of Rs.10,00,000/- as a hand loan on 25.12.2018 and assured to repay the same within a period of 10 days. Towards repayment of the same, the respondent had issued a cheque for a sum of Rs.10,00,000/- and the same was presented for collection. However, it was dishonoured for the reasons “Funds insufficient” and the appellant caused statutory notice to the respondent. Thereafter, the appellant filed a complaint and the same has been taken cognizance for the offence punishable under Section 138 of NI Act.

3. In order to prove the complaint, the appellant had examined P.W.1 and P.W.2 and marked Exs.P1 to P8. 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



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acquitted him for the offences punishable under Section 138 of NI Act.

Aggrieved by the same, the present appeal has been filed.

4. The learned counsel for the appellant would submit that the respondent never denied his signature and also the issuance of the cheque. Therefore, the appellant had discharged his initial burden as contemplated under Section 138 of NI Act. That apart, the respondent has also categorically admitted in his statement recorded before the Police Station that he will repay the entire cheque amount. Even then, the trial Court acquitted the respondent.

5. On a perusal of the records it is revealed that the statement of the respondent was recorded before Suryanagara Police Station in S.C.R.No.92/2019 dated 30.01.2019. Admittedly, the statement was recorded before the police station and hence it cannot be admissible in any evidence. The appellant was examined as P.W.1 and he was cross examined in a detailed manner. During his cross-examination he admitted that even before the statutory notice, the respondent lodged a complaint as against the petitioner. During enquiry, the respondent undertakes to pay the loan amount to one Vedamoorthy and he never admitted that he undertakes to repay the amount to the appellant herein.



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6. The specific defense of the respondent was that he never borrowed any amount from the appellant herein. In fact, the appellant had also admitted the said fact and that apart, he was working as a Driver and drawing salary of Rs.40,000/-. Therefore, the appellant was not capable to lend such a huge amount of Rs.10,00,000/- as a hand loan. Further, at the time of borrowal of loan, the petitioner failed to obtain any documents for security purpose. The alleged cheque was marked as Ex.P1. Ex.P1 also revealed that the except the signature, other letters have been filled up by the appellant herein.

7. It is clear from the records that the cheque was issued for security purpose at the time of borrowal of loan and that too from Vedamoorthy and not from the appellant. Hence, the respondent had categorically rebutted the presumption under Section 113 and 139 of NI Act. Even then the appellant failed to prove that the cheque was issued for legally enforceable debt. Therefore, the trial Court has rightly dismissed the complaint and this Court finds no illegality or infirmity in the order passed by the trial Court.



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8. Accordingly, this Criminal Appeal is dismissed.

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

To:

1.Judicial Magistrate, Fast Track Court,Hosur



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G.K.ILANTHIRAIYAN, J.

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