



Crl.A.No.611 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2025

CORAM:

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

Crl.A.No.611 of 2025

E.Ravikumar

... Appellant

Vs.

N.Sujatha

... Respondent

PRAYER: Criminal Appeal filed under Section 378(4) of Cr.P.C., to set aside the order of acquittal by the learned Metropolitan Magistrate, Fast Track Court-2, Egmore @ Allikulam, Chennai in C.C.No.9376 of 2018 dated 14.05.2024 by allowing this Criminal Appeal.

For Appellant : Mr.K.Kathiresan

JUDGMENT

This Criminal Appeal has been filed as against the order dated 14.05.2024, passed by the learned Metropolitan Magistrate, Fast Track Court-2, Egmore @ Allikulam, Chennai, in C.C.No.9376 of 2018, thereby acquitted the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act (hereinafter referred to as “the NI Act”).

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



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accused in the complaint lodged by the appellant for the offence punishable under Section 138 of the NI Act, alleging that the respondent issued cheque towards repayment of loan borrowed by her for a sum of Rs.8 lakhs on 04.06.2018. It was presented for collection. But it was returned dishonoured for the reason "funds insufficient". After causing statutory notice, the appellant filed the complaint.

3. On the side of the appellant, he himself examined as P.W.1 and marked documents Ex.P.1 to Ex.P.4. On the side of the respondent, she was examined herself as D.W.1 and marked documents in Ex.D1 to Ex.D.4. On perusal of the oral and documentary evidences, the trial Court acquitted the respondent for the offence punishable under Section 138 of NI Act. Aggrieved by the same, the appellant filed the present appeal.

4. The learned counsel appearing for the appellant submitted that the appellant discharged his initial burden as contemplated under Section 138 of the NI Act. However, the respondent failed to rebut the presumption. Even then, the trial Court failed to convict the respondent. The respondent never disputed her signature and also issuance of cheque. Therefore, there is presumption under Sections 118 & 139 of the NI Act



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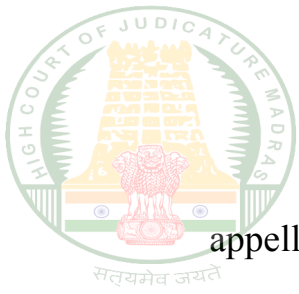
and the respondent failed to rebut the same in the manner known to law.

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5. Heard the learned counsel appearing for the petitioner and perused the materials placed before this Court.

6. On perusal of records revealed that the respondent issued cheque toward repayment of loan borrowed by her. However, the appellant did not even whisper about on what date and how much the respondent borrowed loan from the appellant. The specific case of the respondent was that the appellant is the builder and he developed the property in which, the respondent and her husband had purchased a house. The appellant arranged bank loan for which, the respondent had issued unfilled cheque. Even after registration of the sale deed and after repayment of the entire loan amount, the appellant failed to return the cheque, even after repeated demand. The said cheque was misused by the appellant and initiated the proceeding under Section 138 of NI Act.

7. On perusal of the deposition of D.W.1 also revealed that in the year 2016, the respondent and her husband purchased a flat from the



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appellant. The appellant run a construction company in the name of her wife. Her wife executed sale deed in favour of the respondent. At the time of entering into the agreement, the respondent paid a sum of Rs.1,00,000/- and also issued blank cheque due of total sale consideration of Rs.33,00,000/-. For the remaining sale consideration, they arranged loan and after repayment of the entire loan amount, the sale deed was registered in favour of the respondent.

8. Therefore, the appellant failed to discharge the initial burden to prove the charge under Section 138 of the NI Act. But the respondent rebutted the presumption by examining herself as D.W.1 and also marked the documents in Ex.D.1 to Ex.D.4. In fact, Ex.D.4 is clear that alleged cheque was received by the appellant's wife on 01.07.2016 and accordingly she issued receipt. Therefore, the trial Court rightly acquitted the respondent and this Court finds no infirmity and illegality in the order passed by the trial. Hence, the appeal fails and it is liable to be dismissed.



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

rts
To

1. The Metropolitan Magistrate,
Fast Track Court-2,
Egmore @ Allikulam,
Chennai,



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G.K.ILANTHIRAIYAN, J.

rts

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