



Crl.A.No.1294 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2025

CORAM

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

Crl.A.No.1294 of 2025

A.Jayaraman

.....

Appellant

Vs.

K.Sathish

.....

Respondent

Prayer: Criminal Appeal is filed under Section 419 of BNSS to set aside the order of acquittal dated 02.08.2024 passed in S.T.C.No.573 of 2022 on the file of the Hon'ble Judicial Magistrate - I, Krishnagiri and convict the respondent for the offence under Section 138 of Negotiable Instruments Act and award compensation.

For Appellant : Mr.N.Sivaprakash

JUDGMENT



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This appeal has been preferred as against the order dated 02.08.2024 made in S.T.C.No.573 of 2022 on the file of the Hon'ble Judicial Magistrate - I, Krishnagiri, thereby dismissing the petition filed under Section 138 of the NI Act.

2. The appellant lodged a complaint against the respondent for the offences punishable under Section 138 of NI Act alleging that on 10.07.2021 the respondent had borrowed a sum of Rs.9,00,000/- from the appellant and in order to repay the same, he issued a cheque for the said sum and it was presented for collection. However, it was returned dishonoured for the reason "Payment stopped by the drawer". After causing statutory notice, the appellant filed a complaint against the respondent and the same has been taken cognizance by the trial Court for the offence punishable under Section 138 of NI Act.

3. In order to prove the case, the appellant had examined P.W.1 and marked Exs.P1 to P6. On the side of the defendant, he had examined D.W.1 and marked Exs.D1 to D4. On perusal of the oral and documentary evidence, the trial Court found the respondent not guilty for the offence punishable under Section 138 of NI Act and acquitted him. Aggrieved by the same, the present



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appeal has been filed.

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4. The learned counsel for the appellant submitted that the trial Court dismissed the complaint only on the ground that the appellant did not mention about the earlier transaction of loan borrowed by the respondent on execution of pro-note dated 29.02.2020. In fact, the respondent did not deny the signature and issuance of cheque. Therefore, the appellant had discharged his initial burden as contemplated under Section 138 of NI Act. Further, the respondent failed to rebut the presumption and even then, the trial Court mechanically acquitted the respondent. He further submitted that the respondent after receipt of legal notice, had failed to issue any reply notice.

5. On perusal of records it is revealed that the respondent borrowed a sum of Rs.5,00,000/- on execution of pronote on 29.02.2020 from the appellant herein. On the date of borrowal, the respondent also issued a cheque to the appellant for security purpose and it was marked as Ex.P1. On a perusal of Ex.P1, it is revealed that it was a signed blank cheque and subsequently filled by the appellant herein. Further, the statement of accounts from the respondent has also been marked as Exs.D1 to D4. It shows that the respondent has paid the monthly interest for the loan of Rs.5,00,000/- borrowed from the appellant



herein. That apart, when the appellant was lending loan to the tune of Rs.5,00,000/-, the respondent executed the pronote and also issued signed blank cheque for security purpose.

6. On 10.07.2021, when the appellant lent the loan to the tune of Rs.9,00,000/-, he did not receive any document for security purpose. No prudent person would lend loan for such a huge amount without any security documents. Thus, it is clear that the cheque was issued for security purpose at the time of borrowal of a sum of Rs.5,00,000/- and the respondent has also executed the pronote. However, the said cheque was misused by the appellant and proceedings under Section 138 of NI Act has been initiated. In fact, the appellant had also kept quiet without saying about the earlier borrowal and the suit filed by him as against the respondent in his notice as well as complaint. Therefore, the respondent has categorically rebutted the presumption as contemplated under Section 118 and 139 of NI Act. Though the burden shifts on the shoulder of the appellant, he failed to prove that the cheque was issued for legally enforceable debt. Hence, the trial Court has rightly acquitted the respondent and this Court finds no infirmity or illegality in the order passed by the trial Court.



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WEB COPY 7. Accordingly, this Criminal Appeal is dismissed.

20.08.2025

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

To:

1. The Judicial Magistrate - I, Krishnagiri



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