



Crl A(MD)No.233 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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K.Subramanian

... Appellant / Complainant

Vs.

Esakkiraja

... Respondent/ Accused

PRAYER: Appeal filed under Section 419 (A) of the Code of Criminal Procedure, to set aside the order made in STC.No.388 of 2021 by the District Munsif cum Judicial Magistrate, Senkottai dated 06.12.2024 acquitting the respondent.

For Appellant : Mr.D.Venkatesh

JUDGMENT

This criminal appeal is filed by the appellant / complainant in STC No.388 of 2021 on the file of the District Munsif cum Judicial Magistrate Court, Senkottai, as against the judgment of the trial Court acquitting the respondent / accused from the complaint under Section 138 of the Negotiable Instruments Act.



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2.The case of the appellant / complainant before the trial Court is that this respondent borrowed a sum of Rs.20 lakh on 21.02.2020. He issued a cheque bearing No.192156 dated 10.02.2021 in discharge of the said liability. This cheque on presentation was returned for insufficient funds. Therefore after issuing legal notice, the appellant lodged the above complaint under Section 200 CrPC before the learned Judicial Magistrate, Senkottai, it was decided in STC No.388 of 2021 and the complaint was rejected on 06.12.2024. As against this order of the trial Court, the complainant has preferred this criminal appeal.

3.The learned Counsel for the appellant submits that the appellant is having agricultural lands and he is also having sufficient income to lend Rs.20 lakh. The respondent is none other than the relative of the appellant and therefore, the reasons given by the trial Court that the complainant is not having sufficient source of income to lend a sum of Rs.20 lakh is not correct. He also submits that the cheque - Ex.P1 is the instrument given by the respondent / accused and he has not denied the signature. The cheque on presentation has been returned as insufficient funds. While so, the court is not correct in concluding that the accused has denied the signature in the cheque. The learned



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counsel by relying upon the evidence of PW1 and DW1 submits that it is admitted that the respondent / accused is a close relative of the complainant.

4.This court considered the submission and perused the materials placed on record.

5.Admittedly the complainant is a farmer. He is having lands to the extent of 50 cents. He has also obtained 10 acres of land on lease and is doing agriculture. He is said to have lent a sum of Rs.20 lakh to the respondent on 21.02.2020 without obtaining any documents as security. He has received a cheque on 10.02.2021 for the said amount without insisting for any interest. He was not even aware where the accused is working. The respondent has denied the transaction as projected by the complainant. According to him, he has misplaced the cheque in the year 2018 and he has also reported the same to the bankers by letter dated 13.04.2018 by giving 'stop payment' instruction. The cheque was returned for insufficient funds and stop payment. The complaint of this respondent dated 13.04.2018 is marked before the trial Court as Ex.B1 and the Manager of the bank has been examined by the respondent. According to the respondent, this cheque was misplaced on



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13.04.2018 and it been misused by the complainant on 10.02.2021 as if this cheque was issued by the respondent for the liability of Rs.20 lakh.

The trial Court has found that the complainant is not having sufficient source of income for lending a sum of Rs.20 lakh and the bank balance of the appellant as on the date was Rs.1,500/-. Therefore, this Court is not inclined to interfere with the judgment of the trial Court.

19.03.2025

DSK

To

The District Munsif
cum Judicial Magistrate,
Senkottai.



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B.PUGALENDHI, J.,

DSK

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