



A.S.(MD)No.117 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Judgment	Date of Pronouncing the Judgment
05.11.2025	17.11.2025

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

A.S.(MD)No.117 of 2020

J.Magesh

... Appellant / Plaintiff

vs.

Gunavathi alias Gunaavathi

... Respondent / Defendant

PRAYER : Appeal Suit filed under Section 96 Civil Procedure Code, to set aside the judgment and decree dated 30.08.2019, passed in O.S.No.31 of 2019, by the learned District Judge / Fast Track Mahila Court, Karur.

For Appellant

: Mr.E.K.Kumaresan

For Respondent

: Mr.N.Marimuthu
for Mr.A.Chandrakumar



A.S.(MD)No.117 of 2020

WEB COPY

JUDGMENT

C.V.KARTHIKEYAN, J.

The plaintiff in O.S.No.31 of 2019 on the file of the Additional District Court / Fast Track Mahila Court, Karur, is the appellant herein.

2. The appeal has been filed aggrieved by the dismissal of the said suit by judgment dated 30.08.2019.

3. The suit in O.S.No.31 of 2019 had been filed by the appellant for recovery of a sum of Rs.28,69,150/- on the basis of a promissory note said to have been executed by the defendant on 19.05.2013.

4. In the plaint, it had been stated that the defendant had borrowed a sum of Rs.25,00,000/- from the plaintiff on 19.05.2013 for her family and business expenses and had executed a promissory note agreeing to repay the amount on demand together with interest at Rs.1/- per month per Rs.100/-. It had been further stated that, in spite of repeated demands, the defendant had not repaid the amount, necessitating the plaintiff to issue a notice on 22.07.2014, which had



A.S.(MD)No.117 of 2020

WEB COPY

been received by the defendant on 30.07.2014. Since the defendant had not complied with the demand raised in the notice, the suit had been filed seeking recovery of the amount together with interest and costs.

5. In the written statement, the defendant denied the alleged borrowal and stated that she had no acquaintance with the plaintiff. According to the defendant, her husband was running a business with one Ramesh, and the said Ramesh had obtained blank promissory notes and other documents from the defendant through her husband. Due to misunderstandings between her husband and Ramesh, and since Ramesh was a friend of the plaintiff, the said Ramesh had allegedly filled up the signed promissory note. The defendant denied that any consideration had passed under the promissory note and therefore, sought dismissal of the suit.

6. The learned Trial Judge had framed the following issues for determination:-

"(i) Whether the suit promissory note dated 19.05.2013 was true and valid?

(ii) Whether the plaintiff was entitled to the suit amount?

(iii) To what other reliefs, if any, the plaintiff was entitled to?"



A.S.(MD)No.117 of 2020

WEB COPY

7. During the trial, the plaintiff examined himself as P.W.1 and also examined the scribe of the promissory note as P.W.2. He marked the original promissory note as Ex.A1, the copy of the notice issued to the defendant as Ex.A2, the postal acknowledgment card as Ex.A3, and the reply notice issued by the defendant as Ex.A4.

8. On the side of the defendant, she examined herself as D.W.1 but did not mark any documents.

9. The learned Trial Judge, on appreciation of the averments made in the pleadings and the oral and documentary evidence, first came to the definite conclusion that *"the plaintiff has proved the execution, attestation, and passing of consideration under Ex.A1 promissory note. So, the presumption under Section 118 of the Negotiable Instruments Act automatically arises in his favour."*

10. Thereafter, the learned Trial Judge examined the contention of the defendant that she did not know the plaintiff and had not borrowed any money from him. The learned Trial Judge took note of the statements made by the



A.S.(MD)No.117 of 2020

plaintiff during cross-examination, wherein he had stated that he was an agriculturist earning about Rs.10,00,000/- to Rs.15,00,000/- per annum and, therefore, had sufficient means to lend Rs.25,00,000/- to the defendant. The learned Trial Judge, however, found fault with the plaintiff for not examining one of the attesting witnesses to the promissory note, namely, Nallusamy, though the other witness and scribe, Sivasubramani, had been examined as P.W.2.

11. The learned Trial Judge further observed that, during cross-examination, the plaintiff had stated that the defendant had come to his house along with her husband and received the money. The learned Trial Judge also noted that the name of the Village where the plaintiff was residing was not mentioned in the cause of action paragraph of the plaint. It was further observed that P.W.2 had stated that he did not know the defendant. On the basis of the above evidence, the learned Trial Judge ultimately came to a contrary conclusion that "*the defendant has proved the non-existence of consideration to the plaintiff to lend the loan to the defendant.*"



A.S.(MD)No.117 of 2020

WEB COPY

12. Holding that the plaintiff had not proved the existence of consideration, the learned Trial Judge proceeded to dismiss the suit.

13. Challenging the said judgment and the findings recorded therein, the plaintiff has preferred the present appeal.

14. Heard the learned counsel for the appellant and the learned counsel for the respondent. Both reiterated the respective stands taken during the trial.

15. The learned counsel for the appellant submitted that the execution of the promissory note stood proved through the evidence of P.W.2, the scribe, and therefore, a presumption under Section 118 of the Negotiable Instruments Act, 1881 arises in favour of the plaintiff that the defendant had executed the promissory note with full knowledge of its contents, including the borrowal of the suit amount.

16. The learned counsel for the respondent, on the other hand, contended that the respondent's husband had business dealings with one Ramesh, and that



A.S.(MD)No.117 of 2020

the said Ramesh had obtained blank signed promissory notes and other documents from the respondent. It was further contended that, due to subsequent misunderstandings between Ramesh and the respondent's husband, the said Ramesh, in collusion with the plaintiff, had filled up the said promissory note and brought about the present suit. Hence, it was urged that the appeal deserves to be dismissed.

17. We have given our careful consideration to the rival submissions advanced and have perused the material records.

18. The following points arise for determination:-

(i) Whether the appellant has proved the execution of the promissory note in the manner known to law?

(ii) Whether the learned Trial Judge was right in holding that the respondent had proved non-consideration for the promissory note?

19. The appellant instituted the suit on the basis of a promissory note dated 19.05.2013, specifically asserting that it had been executed by the respondent on



A.S.(MD)No.117 of 2020

WEB COPY

account of her borrowing a sum of Rs.25,00,000/- for her family and business expenses. Prior to the institution of the suit, the appellant had issued a legal notice, which was duly received by the respondent. However, till the date of filing of the suit on 11.08.2014, the respondent had not chosen to issue any reply.

20. To establish the execution of the promissory note and to prove consideration, the appellant examined P.W.2, who was not only one of the attesting witnesses but also the scribe of the promissory note. On the basis of the evidence tendered, the learned Trial Judge came to the conclusion that the appellant had proved the execution, attestation, and passing of consideration under Ex.A1. The learned Trial Judge further observed that a presumption under Section 118 of the Negotiable Instruments Act, 1881 had automatically arisen in favour of the appellant.

21. However, thereafter, the learned Trial Judge took a tangential view by embarking upon an examination of the cross-examination of the appellant (P.W.1). During cross-examination, the appellant had clearly stated that he was an agriculturist earning between Rs.10,00,000/- and Rs.15,00,000/- per annum and



A.S.(MD)No.117 of 2020

therefore, had sufficient means to lend the amount to the respondent. One of the factors pointed out by the learned Trial Judge was that, though the appellant had asserted that the respondent had come to his house along with her husband to borrow the money, the name of the Village where he resided was not mentioned in the cause of action paragraph. This was cited as one of the reasons for non-suiting the appellant.

22. We hold that the said reasoning of the learned Trial Judge cannot withstand the scrutiny of this Court. In the cause of action paragraph, the appellant had very clearly stated the date on which the promissory note was executed, the date on which the notice was issued, and the dates on which demands were made. He had also specifically stated that the cause of action arose *"at Aravakurichi Taluk, Karur District, where the transaction took place and where the money is payable and within the jurisdiction of this Hon'ble Court."* It is thus evident that the appellant had clearly set out not only the dates when the cause of action arose but also the place where it had arisen.



A.S.(MD)No.117 of 2020

WEB COPY

23. The respondent, on the other hand, had not tendered any evidence to substantiate the alleged business dealings between her husband and the said Ramesh, or to prove that any signed blank promissory notes had been handed over to him. There is an absolute lack of credible evidence on the side of the respondent. Once the learned Trial Judge had come to a definite conclusion that the appellant had proved the execution, attestation, and passing of consideration under the promissory note, the only course open to the respondent was to prove discharge or repayment of the amount, either wholly or in part. The passing of consideration having already been established by the appellant, we hold that the learned Trial Judge erred in going beyond the pleadings and in rendering a specious finding that the respondent had proved non-passing of consideration without any material on record.

24. With respect to the first point framed for determination, we hold that the appellant has not only proved the execution of the promissory note but also its attestation and the passing of consideration thereunder.



A.S.(MD)No.117 of 2020

WEB COPY

25. With respect to the second point, we hold that the learned Trial Judge misdirected herself in concluding that the respondent had proved the non-passing of consideration without any material basis. Such a finding, in our considered opinion, was, to put it extremely mildly, perverse.

26. Therefore, we have no hesitation in setting aside the judgment and decree of the Trial Court. Accordingly, the judgment and decree of the Trial Court are set aside, and the suit filed by the appellant is decreed as prayed for.

27. In the result, the Appeal Suit is allowed with costs.

Index : Yes / No
NCC : Yes / No
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[C.V.K., J.] & [R.V., J.]
17.11.2025

To

1.The Additional District Judge,
Fast Track Court,
Karur.



A.S.(MD)No.117 of 2020

WEB COPY

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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A.S.(MD)No.117 of 2020

C.V.KARTHIKEYAN, J.
and
R.VIJAYAKUMAR, J.

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PRE-DELIVERY JUDGMENT MADE IN
A.S.(MD)No.117 of 2020

17.11.2025