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CrI.A.No.972 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.02.2026

PRONOUNCED ON : 10.04.2026

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.972 of 2022

S.Motcha Rackini

... Appellant

Vs.

Jayanthi

... Respondent

Prayer: Criminal Appeal filed under Section 378(2) of Cr.P.C., to set aside the order of acquittal passed by the learned Judicial Magistrate (Fast Track Court), Tiruvannamalai in S.T.C.No.98 of 2013 dated 15.09.2021 and allow this appeal by convicting the respondent/accused to maximum sentence and impose fine double the amount of cheque payable to the complainant.

For Appellant : Mr.I.Abdul Basith

For Respondent : Mr.R.Rajarajan



JUDGMENT

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The appellant as complainant filed a case under Section 138 of Negotiable Instrument Act (NI Act) against the respondent in S.T.C.No.98 of 2013 before the learned Judicial Magistrate (Fast Track Court) Tiruvannamalai. The Trial Court by judgment dated 15.09.2021 dismissed the complaint. Against which, the present appeal is filed.

2.The complaint against the respondent filed before the Trial Court is that the appellant working as Headmistress in Naidumangalam Village, Tiruvannamalai Taluk, the respondent was also a Teacher and hence, they had a cordial relationship. Their respective spouses were also Teachers and known to each other. The respondent for family requirements borrowed a sum of Rs.15,00,000/- from the appellant and in repayment of the same, issued a cheque bearing No.162581 for Rs.15,00,000/- drawn on Indian Bank, Naidumangalam Branch dated 17.02.2013. The respondent assured that there would be sufficient balance in the bank to present the cheque and encash it. Thereafter, the appellant presented the cheque in State Bank of India on 11.03.2013. But the cheque was returned unpaid for the reason “Insufficient funds”. The appellant caused a legal notice on 18.03.2013. The



respondent replied with false averments and hence, ignoring the same complaint filed. During trial, the appellant examined herself as PW1 and marked Ex.P1 to Ex.P9. PW2 is the Bank Manager of Indian Bank. On the side of the defence, the bank account of accused was marked as Ex.X1. On conclusion of trial, the Trial Court dismissed the complaint. Against which, the present appeal filed.

3.The contention of the learned counsel for the appellant is that the respondent not denied the issuance of cheque and her signature, she only takes a stand that the cheque was issued for a hand loan borrowed earlier, but the respondent neither examined herself nor brought any materials on record to show that what was the earlier borrowing and how it was repaid, no details furnished. Hence, the statutory presumption under Sections 118 and 139 of NI Act comes into play. The appellant was cross examined in detail and raised a doubt on the transaction citing that during the relevant period, the appellant's husband gave a loan of Rs.10,00,000/- to the respondent's husband and hence no loan could have been given. Further, with regard to loan of Rs.15,00,000/- the appellant had given the details, how she had mobilised such a huge amount. The appellant and her husband



both are earning Rs.52,000/- per month and they are Teachers for more than 25 years. They also own 6 acres of agricultural land and further in the year 2011, LIC policy got matured and she received Rs.12,40,000/-, apart from it she availed jewel loan of Rs.2,50,000/- and these amounts were kept with her to purchase a property. Since a known teacher asked for urgent help, the amount was given as a loan. Further, the appellant also gave denominations of notes given as loan. The appellant marked nine documents, of which Ex.P6 is the Indian Bank statement of account showing jewel loan of Rs.2,54,000/- available. Further, Ex.P7 is the statement of account of joint account of appellant with her husband at Karur Vysya Bank wherein some balance was available. Ex.P8 is the pay drawn particulars of the appellant and Ex.P9 is the Auditor account statement of the appellant, in which, loan was reflected. These documents have not been seriously disputed or questioned, but the Trial Court, on its own had given a finding that Ex.P6 to Ex.P9 filed in the year 2021 and the loan transaction in this case is in the year 2013, hence rejected these documents and not considered the same. The complainant in this case was grilled by lengthy cross-examination. Appellant withstood the cross-examination and deposed clearly with regard to loan transaction, with regard to wherewithal and loan given to the



respondent. But the Trial Court dismissed the complaint.

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4.In support of his contention, the learned counsel for the appellant relied upon the judgment of the Apex Court in the case of *Aslam alias Imran vs. State of Madhya Pradesh* reported in *2025 SCC online 670* and submitted that the respondent claimed that there was a dispute in the stock market business and the appellant's husband and the respondent's husband had dispute and misunderstanding and for this reason filled up a cheque and projected a false case. In the above decision, it is held that enmity is a double-edged weapon. On one hand, it provides motive, on the other hand, it also does not rule out the possibility of false implication.

5.The learned counsel for the respondent strongly opposed the petitioner's contention and submitted that the Trial Court by a well-reasoned judgment had culled out the evidence of PW1 and referred to the evidence of the complainant and on the documents produced and rightly dismissed the complaint. He further submitted that even at the first instance, the respondent sent a reply notice Ex.P5 and the respondent denied any loan or transaction. It is clearly stated that the respondent had no necessity or reason



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to borrow such a huge amount of Rs.15,00,000/- and that to, in cash. A

blank cheque was given for a earlier hand loan along with promissory note, retained and earlier loan discharged and the security cheque is misused is the specific defence of the respondent. Further, the respondent had questioned whether the amount of Rs.15,00,000/- given as loan to the respondent had been declared in the income tax returns and the respondent was willing to pay the cost for getting the copy of the income tax returns. But despite receipt of the reply notice, no rejoinder or explanation sent. The appellant was questioned the wherewithal, thereafter to, no steps taken to produce the income tax returns or any contemporary document to show appellant had wherewithal. On the other hand, Ex.P9 Auditor's statement prepared for the purpose of this case and in the Auditor's statement, though shown filed for the years 2006-2007 to 2012-2013 and loan of Rs.15,00,000/- to the respondent is shown. But the audit statement prepared on 30.01.2021 i.e., almost ten years after the transaction. Further, the bank statement clearly confirms that the petitioner was not having such huge amount and the amount of Rs.2,40,000/- is a jewel loan. From Ex.P9, it is seen that in the year 2009-2010, agricultural land at Maruthuvambadi declared and thereafter, there is no addition of any property, the value of the jewellery not



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increased and it is consistent right from the year 2006 to 2012. Thus, confirming that the appellant had no income, to lend a loan of Rs.15,00,000/-. The appellant though claims that she received LIC policy maturity amount of Rs.12,40,000/- during the previous year of the loan, but in the bank statement filed by the appellant, there is no reference to LIC transaction. LIC transfers the maturity amount through the bank and hence, the appellant's contention that she received Rs.12,40,000/- through LIC is false. The Trial Court finding that the documents, Ex.P6 to Ex.P9 are got up documents, not considered the same. Hence, the wherewithal of the appellant questioned and the appellant unable to give any explanation and prove how she had huge amount of Rs.15,00,000/- in cash. The Trial Court rightly finding respondent probalilized her defence dismissed the complaint and discharged the respondent.

6.In support of his contention, the learned counsel for the respondent relied upon the judgment of the Apex Court in the case of ***Rajaram vs. Maruthachalam*** reported in ***(2023) 16 SCC 125***. Wherein the Apex Court held that when the execution of the cheque is admitted, Section 139 of NI Act mandates presumption that the cheque was for discharge of any debt or



other liability. Further, it had also held that presumption under Section 139

of NI Act is a rebuttable presumption and the onus is on the accused to raise probable defence. In this case, the appellant failed to produce the income tax returns, which is the probable defence and consistent stand of the respondent. Even in the initial reply notice Ex.P5, the respondent questioned wherewithal and requested to produce income tax returns, on the contrary Auditor's statement Ex.P9 produced to show that appellant had sufficient income for the year 2006-2007 to 2012-2013, but this Auditor's statement prepared on 30.01.2021. Hence, it is apparent that these documents are not contemporary documents and not filed along with the Income Tax Department, prepared for the purpose of this case.

7.Considering the submission made and on perusal of the materials, it is seen that in this case, the appellant and the respondent are Teachers, known to each other for ten years and their respective spouses are also Teachers. The appellant filed the above case for Rs.15,00,000/- cheque and her husband filed a case for Rs.10,00,000/- against the respondent's husband. When the respondent specifically questioned with regard to the case filed by the appellant's husband, appellant evaded the same and replied



that it is for him to answer. The appellant is specific that she gave loan of Rs.15,00,000/- in cash on 17.02.2013 for which her evidence is that for 25 years she is a Teacher, both the appellant and her husband are earning Rs.52,000/- per month, they also own 6 acres of land and getting income. Further, in the year 2011, LIC policy maturity amount of Rs.,12,40,000/- received and in the year 2012, jewel loan of Rs.2,40,000/- obtained. From Ex.P6/statement of account of the complainant and Ex.P7/statement of account of appellant and her husband, it is seen that there is no reference for receipt of payment of maturity amount from LIC. Further, it is seen that the documents Ex.P6 to Ex.P9 clearly shows that the appellant had no wherewithal to provide loan of Rs.15,00,000/-. Ex.P6 to Ex.P9 are the documents prepared in the year 2021, not supported the case of the complainant. From Ex.P9/Auditor's statement, it is clear that it is a got up document and it is prepared only on 30.01.2021 and it is not a contemporary document of the year 2012 during the loan period. Hence, the respondent rightly probalised her defence by cross examination and referring to the documents filed by the appellant/complainant which the Trial Court, extracted in the judgement referred and had given a well reasoned judgment. This Court finds no reason to interfere with the findings of the Trial Court.



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8.In the result, the Criminal Appeal stands dismissed.

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Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse

To

The Judicial Magistrate,
(Fast Track Court,)
Tiruvannamalai.



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M.NIRMAL KUMAR, J.

cse

Pre-delivery judgment made in

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