IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2026

CORAM

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

Crl.A.No.194 of 2015

S. Anandhakumar ... Appellant

Vs.

T. Jothiraj ... Respondent

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C to set aside the Judgment of the learned District Munsif Cum Judicial Magistrate Paramathi Velur Namakkal District in S.T.C.No.221 of 2013 by its Judgment dated 27.08.2014 acquitting the accused/respondent for the offence u/s 138 of the Negotiable Instrument Act.

For Appellant : Mr.C.D. Johnson

For Respondent : Mr.M.Ganesan, Legal Aid counsel

O R D E R

This appeal has been filed as against the Judgment of the learned District Munsif Cum Judicial Magistrate Paramathi Velur Namakkal District in S.T.C.No.221 of 2013 dated 27.08.2014 .

2. Brief facts necessary for the disposal of the case is as follows:

2.1.The respondent is an accused in the complaint lodged by the appellant for the offence under section 138 of the Negotiable Instruments Act alleging that the appellant had given a loan to a tune of Rs.4,15,000/- to the respondent for the purchase of the two wheeler. It is stated that after payment of the first installment the respondent failed to pay the remaining installments. When the appellant demanded for the re-payment of loan, the respondent had issued a cheque for a sum of Rs.4,51,000/- to settle the entire amount and when the cheque was presented for payment, the same was returned with an endorsement “funds insufficient”. Hence, the appellant had lodged the complaint and the same has been taken cognizance by the Court below for the offence punishable under Section 138 of the Negotiable Instruments Act.

2.2.In order to prove the complaint, the appellant examined himself as P.W.1 and Ex.P.1 to Ex.P10 were marked .On the side of the respondent one witness D.W.1 and one document Ex.D.1 was marked.

2.3. On a perusal of the oral and documentary evidence the Trial Court found that the respondent was not guilty under section 138 of the Negotiable Instruments Act and acquitted him from the charges. Aggrieved over the same the appellant has filed this present appeal.

3. The learned counsel for the appellant submits that the respondent did not deny the issuance of the cheque and signature found in the cheque. The appellant discharged his initial burden as contemplated under section 138 of the Negotiable Instruments Act. Though the respondent failed to rebut the presumption, the Trial Court acquitted the respondent for the offence under section 138 of the Negotiable Instruments Act. Hence, prays to allow this appeal.

4. *Per contra* the learned counsel for the respondent submits that the respondent had not given loan for a sum of Rs.4,15,000/- by hypothecation. The appellant had availed the loan from the respondent only for the purchase of the two wheeler and thereafter failed to repay the loan amount. Therefore, the appellant is liable to be punished under

Section 138 of the Negotiable Instruments Act. Hence, prays to dismiss this appeal.

5. Heard both sides and perused the materials available on record.

6.Perusal of records reveals that according to the appellant herein, the respondent borrowed a sum of Rs.4,15,000/- and in order to repay the said amount the respondent issued a cheque for a sum of Rs.4,15,000/-. But the fact remains that the cheque was issued for a sum of Rs.4,51,000/- and the respondent had already availed a loan for a sum of Rs.2,50,000/- from the appellant and he had repaid a sum of Rs.1,80,000/-. Further the cheque was given for security purpose and the same was misused by the appellant herein to initiate offence under Section 138 of the Negotiable Instruments Act. That apart the respondent had examined D.W.1/Manager of the Appellant's Finance Company, who had categorically submitted that the cheque was issued to continue the hypothecation and the cheque was not issued in favour of the respondent. While availing the loan, the appellant failed to prove that the respondent had availed loan from the appellant through Ex.D.1. On receipt of the statutory notice, the appellant had replied to the same on 02.04.2013 which is marked as Ex.P.7 and it reveals that the respondent had categorically denied the borrowal.

7. According to the respondent he had borrowed only Rs.2,50,000/- and he had repaid a sum of Rs.70,000/- and there was a due for a sum of Rs.1,80,000/-. The cheques which are marked as Exs.P2 and P3 were handed over to the appellant only for security purpose. Hence, the appellant failed to disprove the provisions contemplated under section 138 of the Negotiable Instruments Act and that the cheque was not issued for any legally enforceable debt. Hence the Trial Court rightly acquitted the respondent.

8. Therefore, this Court finds that there is no infirmity in the orders passed by the Trial Court. Therefore, this Court comes to the conclusion, that the respondent has not proved the case against the appellant about borrowal of a sum of Rs.4,15,000/- and issuance of the cheque in question for discharging the debt without sufficient funds.

9. In view of the above, this Court finds no reason to interfere with the Judgment passed by the District Munsif Cum Judicial Magistrate Paramathi Velur Namakkal District in S.T.C.No.221 of 2013 and the same is confirmed and this Criminal Appeal stands dismissed.

23.03.2026

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
smn

To.

The District Munsif Cum Judicial Magistrate Paramathi Velur Namakkal District

G.K.ILANTHIRAIYAN, J
smn

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