



Crl.A.No.507 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2026

CORAM

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

Crl.A.No.507 of 2016

P. Srirangan

... Appellant

Vs.

S. Nanambiga

... Respondent

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C to set aside the Judgment passed in S.T.C.No.567 of 2013 on the file of the Judicial Magistrate Fast Track Court No.1, Erode dated 10.02.2016 and pass orders.

For Appellant : Mr.V.S. Kesavan

For Respondent : Mr.K. Kanagendran
for Mr.K.M. Jothi Kumar

ORDER

This appeal has been filed as against the order passed in S.T.C.No.567 of 2013 on the file of the Judicial Magistrate Fast Track Court No.1, Erode dated 10.02.2016.



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

2.1.The appellant lodged a complaint as against the respondent alleging that the respondent had borrowed a sum of Rs.5,00,000/- and in order to discharge the said liability the respondent issued post dated cheque and when the cheque was presented for collection the same was returned with an endorsement “funds insufficient”. After causing statutory notice the appellant lodged a complaint and the same was taken cognizance by the Trial Court.

2.2.In order to prove the complaint, the appellant himself examined as P.W.1 and Ex.P.1 to Ex.P6 were marked .On the side of the respondent no witness was marked and one document Ex.D.1 was marked.

2.3. On a perusal of the oral and documentary evidence the Trial Court found the respondent was not found 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.



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3. The learned counsel for the appellant submits that the Trial Court acquitted the respondent on the ground 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 petition.

4. *Per contra* the learned counsel for the respondent submits that the cheque was not issued for the legally enforceable debt and it was given only for the security purpose. He further submitted that the trial Court has taken the said aspect into consideration and acquitted the accused and the same does not require interference. Hence, prays to dismiss this petition.

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



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6. It is submitted that the appellant filed a petition u/s 311 of Cr.P.C to examine witnesses and the same was allowed with a cost of Rs.500/-. However, the appellant failed to comply the condition. Further the respondent failed to prove her stand in the cross examination. She ought to have examined her husband, who had transactions with the appellant.

7. On a perusal of records and also the statement made by the respondent reveal that the statutory notice was sent to wrong address and the Court summons was also returned because of the same. Therefore, the appellant failed to discharge his initial burden to serve statutory notice. Therefore, there is no cause of action and a complaint was lodged under Section 138 of Negotiable Instruments Act. Further Ex.D1 shows that the cheque was not issued for any legally enforceable debt. In the cross examination P.W.1 admitted that the husband of the respondent was as a herbal distributor.

8. It is the contention of the respondent that when the husband of the respondent was working as a supervisor in the herbal life, he

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introduced one Arumugam and Selvakumar and to promote the said persons as supervisor the appellant had helped them by paying a sum of Rs.50,000/- and Rs.1,00,000/-. At this juncture the respondent has given a cheque and the same was misused by the appellant herein to initiate offence under Section 138 of the Negotiable Instruments Act. The respondent had categorically rebutted the presumption and the appellant had failed to prove that the cheque was issued for a legally enforceable debt. As 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, the Trial Court rightly acquitted the respondent.

9. 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.5,00,000/- and issuance of the cheque in question for discharging the debt without sufficient funds.



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10. In view of the above, this Court finds no reason to interfere with the Judgment passed by the Judicial Magistrate Fast Track Court No.1, Erode in S.T.C.No.567 of 2013 on 10.02.2016 and the same is confirmed and this Criminal Appeal stands dismissed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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To.

1. The Judicial Magistrate Fast Track Court No.1, Erode
2. The Public Prosecutor, Madras High Court, Chennai



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