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CRL A No. 418 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL A No. 418 of 2020

R.Saravanan

..Appellant

Vs

M.M. Syed Sikkander
Proprietor
M/s. Syed Bearing Center
No.16 Begum Sahib 3rd Street,
Mount Road, Chennai-02

..Respondent

Prayer : Criminal Appeal is filed under Section 378(4) of the Code of Criminal Procedure, to call for the records and Judgment acquitting the respondent/accused in C.C.No.6670 of 2016 dated 31.01.2020 passed by the Metropolitan Magistrate (Fast Track Court-I), Egmore at Allikulam, Chennai – 600 003 and set aside the same.

For Appellant:	Mr.L.Rajasekar
For Respondent :	Mr.M.Nalla Thambi, Legal Aid Counsel

JUDGMENT

This Criminal Appeal has been filed challenging the Judgment dated 31.01.2020 passed in C.C.No.6670 of 2016 by the Metropolitan Magistrate



(Fast Track Court-I), Egmore at Allikullam, Chennai, thereby acquitted the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act.

2. The appellant/complainant lodged a complaint for the offence punishable under Section 138 of the Negotiable Instruments Act as against the respondent/accused, alleging that the appellant had advanced a sum of Rs.5,00,000/- to the respondent in two instalments on 06.11.2015 and 11.11.2015 respectively. On receipt of the said amount, the respondent had executed a promissory note for a sum of Rs.2,50,000/- each on 06.11.2015 and 11.11.2015, thereby the respondent agreed to repay the loan amount with interest at the rate of 24% per annum. However, the respondent failed to repay the amount. After repeated requests made by the appellant, the respondent had issued two cheques for a sum of Rs.2,70,000/- each. When the said cheques were presented for collection, the same were returned dishonoured with the endorsement "Funds Insufficient". After causing a statutory notice, the appellant filed a complaint and the same has been taken cognizance by the Trial Court.



3. On the side of the appellant/complainant, he had examined P.W.1 and marked Exs.P1 to P10. On the side of the respondent/accused, he had examined D.W.1 and marked Ex.D1 to D10.

4. On perusal of the oral and documentary evidence, the Trial Court found the respondent not guilty of the offence under Section 138 of the Negotiable Instruments Act and accordingly, acquitted him. Aggrieved by the same, the present appeal has been filed.

5. The learned counsel for the appellant submitted that though the respondent marked Ex.D1 to D10, Ex.D1 and D2 are completely contrary to Ex.D10. None of the defence documents relied upon by the respondent were confronted to the appellant during cross examination. That apart, the said documents are self-serving in nature, allegedly fabricated by the respondent and were not confronted to P.W.1 to speak about their veracity.

6. The respondent had taken a defence that the cheques were forcibly obtained by police personnel on the basis of the complaint lodged by one Sivaneshwaran. However, there is not even a whisper about such plea in



Exs.D1 and D2. Therefore, the respondent has taken inconsistent defence stating that the cheques and other documents were taken by a relative who was assisting the respondent in financial matters and subsequently, it was alleged that the cheques were forcibly taken by the police officials at the police station on 27.11.2015, as reflected in Ex.D10. Therefore, the respondent failed to rebut the presumption as contemplated under Section 139 of the Negotiable Instruments Act. Even then, the Trial Court acquitted the respondent.

7. Heard the learned counsel appearing on either side and perused the materials available on record.

8. A perusal of the documents reveals that the specific case of the respondent is that he did not issue the cheques for discharge of any legally enforceable debt. According to the respondent, one Sivaneshwaran had lodged a false complaint before the police and at his instigation, the police personnel obtained his signature on the blank promissory note and also on the blank cheques. However, the said Sivaneshwaran colluded with the appellant herein and initiated proceedings under Section 138 of the Negotiable Instruments Act. The respondent entered into the witness box and deposed as D.W.1 and also



marked Exs.D1 to D10. It is also evident from Ex.D1 that the respondent was summoned for enquiry by the police. Further, the respondent lodged a complaint against one Habibullah, alleging theft of cheques and cash from his shop, which was marked as Ex.D2. Further, there was no action taken by the police and as such, the respondent was constrained to file a private complaint as against the said Habibullah before the XIII Metropolitan Magistrate, Egmore, Chennai, which was subsequently referred to the Inspector of Police, D2 Police Station, for investigation. The said report was marked as Ex.D3. In the meanwhile, the said Sivaneshwaran handed over the cheques to the appellant herein, who misused the same by presenting them for collection.

9. On receipt of the statutory notice, the respondent issued a reply notice dated 07.03.2016, which was marked as Ex.D7. However, the same was refused by the petitioner and the returned postal cover was marked as Ex.D8. Therefore, the respondent categorically rebutted the presumption and as such, the burden shifted to the shoulder of the appellant herein to prove the complaint. However, the appellant herein failed to prove the complaint and as such, the Trial Court rightly acquitted the respondent. Further, it is a settled principle of law that, while considering an appeal against the acquittal, the Appellate Court



should not interfere with the findings of the Trial Court unless the judgment is perverse or totally illegal.

10. A perusal of the records and the Judgment of Trial Court reveals that the Trial Court has taken a plausible and reasonable view based on the evidence on record. Even though the another view is possible, the order of acquittal cannot be reversed. The presumption of innocence is doubly reinforced by the order of acquittal. Further, if the Trial Court 's appreciation of evidence is reasonable and a possible view, it should not substitute by another view to convict the accused.

11. In view of the above, this Court finds no infirmity or illegality in the order passed by the Trial Court. Accordingly, this Criminal Appeal stands dismissed.

13.03.2026
(2/2)

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

LPP



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To

The Metropolitan Magistrate (Fast Track Court-I),
Egmore at Allikulam,
Chennai – 600 003



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G.K.ILANTHIRAIYAN J.

LPP

CRL A No. 418 of 2020

(2/2)

13.03.2026

Page 8 of 8