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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29-10-2026

PRONOUNCED ON : 05-11-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL A No. 20 of 2022

CNR: {HCMA011648252021}

Case QR

B.Rajendirakumar
S/o. Bheemraj Jain,
No.14/10, Kadambarayan Street,
Tiruvannamalai.

..Appellant(s)

Vs

P.Karthikeyan
S/o. Pachaiyappan,
Banana Mandi,
89, Kamatchi Amman Koil Street,
Tiruvannamalai.

..Respondent(s)

Criminal Appeal filed under Section 378(4) of Code of Criminal Procedure, to call for the entire records in connection with STC No.12 of 2013 dated 26.04.2021 on the file of the learned Judicial Magistrate, Fast Track Court (Magisterial Level) at Tiruvannamalai and set aside the same.

For Appellant(s): Mr.Arunachalakani

For Respondent(s): Mr.K.Balu

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JUDGMENT

The Criminal Appeal challenges the judgment of acquittal dated 26.04.2021 passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level) at Tiruvannamalai in STC No.12 of 2013.

2. The appellant filed a complaint under Section 138 of the Negotiable Instruments Act [in short, 'the NI Act'], stating that the respondent and his brother borrowed a sum of Rs.9,02,400/- for purchasing a lorry registered as TN25J6576; that the respondent had hypothecated the vehicle and an endorsement was made in the R.C.book; that the respondent and his brother had jointly executed a hire purchase agreement and agreed to pay the same in 36 monthly instalments; that they also agreed to pay penal interest at the rate of 36% per annum; that since the respondent had defaulted in repayment, the appellant issued a notice dated 15.12.2012; that on receipt of the said notice, the respondent issued a cheque for Rs.2,51,000/- on 05.01.2013 vide cheque bearing No.037688, towards partial discharge of the said loan; that when the said cheque was presented for collection, it was returned for the reason 'insufficient fund'; that inspite of the statutory notice issued on

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11.01.2013, the respondent did not make any payment; and thus, the respondent committed the offence under Section 138 of the NI Act.

3. Before the trial Court, the appellant examined himself as PW1 and marked Ex.P1 to Ex.P10. The respondent neither examined any witness nor marked any document.

4. The trial Court on consideration of the evidence on record found that the appellant had made contradictory statements in the complaint and in his deposition as to the amount of loan, as regards, whether the loan was given for purchase of one lorry or two lorries and as to whether the loan was obtained by the respondent alone or jointly with his brother and therefore, acquitted the respondent.

5. The learned counsel for the appellant would submit that the trial Court had taken into consideration certain minor contradictions in the evidence of the appellant to hold that the respondent had rebutted the statutory presumption; that the respondent had not denied his signature in the cheque; that the respondent had admitted obtaining loan of

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Rs.2,50,000/- and his defence that he had repaid the loan was not proved; that the trial Court had not taken into consideration the documents filed on behalf of the appellant viz., Ex.P6 and Ex.P7, which are Hire Purchase Agreements, for two vehicles purchased by the respondent and his brother out of the loan amount advanced by the appellant; that Ex.P10-Ledger of loan repayment, would clearly show that the respondent was due to pay money to the appellant; that Ex.P8 and Ex.P9, the copies of the RC books would show that the vehicles were hypothecated to the appellant; and that therefore, the impugned judgment is perverse and liable to be set aside.

6. Learned counsel for the respondent *per contra* would submit that the respondent had rebutted the statutory presumption; that the trial Court has elaborately considered the evidence and on proper appreciation of the evidence had rightly acquitted the respondent. Hence, he prayed for dismissal of the appeal.

7. It is the specific case of the appellant that he had lent Rs.9,02,400/- on 05.04.2011 for purchase of a lorry bearing

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Regn.No.TN25J6576. However, in the proof affidavit, the appellant had stated that he had advanced a loan of Rs.6 Lakhs to the respondent and his brother and that the total amount due including interest was Rs.9,02,400/-. The appellant had produced Ex.P6, the Hire Purchase Agreement to evidence the loan of Rs.6 Lakhs to the respondent. However, in the first page of the document, the loan amount advanced is shown as Rs.4,51,200/- and the instalment amount is shown as Rs.12,550/-. The said page is unsigned. In the second page of the said exhibit, it is stated that the appellant had advanced Rs.6 Lakhs to the respondent as loan for purchase of one vehicle. Similarly, Ex.P7 is another Hire Purchase Agreement, which pertains to the respondent's brother. In the first page of the hire purchase agreement, the loan amount is mentioned as Rs.4,51,200/-. In the second page, the loan amount is referred to as Rs.6 Lakhs. Therefore, the version of the appellant that he had advanced a sum of Rs.6 Lakhs jointly to both the respondent and his brother, is contrary to the records. The Hire Purchase Agreement refers to another amount of Rs.4,51,200/-, which was not stated by the appellant either in the complaint or in the proof affidavit. The appellant in the cross-examination had admitted the discrepancy and had no explanation

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for the variation in the amount of loan in the first page and second page of Ex.P6 and Ex.P7, the Hire Purchase Agreements. The suggestion put by the defence is that the blank documents were filled up.

8. Further in the cross-examination, to a specific question put by the defence as to which of the two versions, viz., whether loan of Rs.9,02,400/- was advanced or a loan of Rs.6 Lakhs was advanced, the appellant/complainant had given an evasive answer saying that both are correct. The appellant had also admitted that, in the complaint he had not referred to the loan advanced to the respondent's brother for purchase of another lorry bearing Regn.No.TN25F3488.

9. Though the appellant had stated that the cheque was issued after the appellant had issued a lawyer's notice on 15.12.2012, the said lawyer's notice was not produced and marked in the trial.

10. Though the case of the defence that they had only obtained a loan of Rs.2,50,000/- and repaid the same, has also not been established, this Court is of the view that the answers in the cross-examination of the

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appellant, the relevant portion of which has been extracted in the impugned judgment, suggests that the respondent had rebutted the statutory presumption.

11. The documents produced by the appellant, his proof affidavit and the averments in the complaint, are contrary to each other. The appellant/complainant did not approach the Court with clean hands. He had changed his stand as regards the nature and amount of liability at every stage. It is also to be noted here that the learned counsel for the appellant submitted that though the original RC book is with the appellant, the respondent had illegally sold the vehicle, thereby causing huge loss to the appellant. However, it is seen that there is an endorsement in Ex.P10, which reveals that the RC books were handed over to the respondent.

12. Therefore, this Court is of the view that the trial Court has correctly appreciated the facts and held the respondent not guilty and acquitted him of the offence under Section 138 of the NI Act. This Court finds no reason or whatsoever to interfere in the judgment and in any

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case, it is not perverse, warranting an interference in the appeal against acquittal.

13. In the result, the Criminal Appeal is dismissed. The judgment of acquittal dated 26.04.2021 passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level) at Tiruvannamalai, in STC No.12 of 2013, is confirmed.

05-11-2026

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

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To

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

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SUNDER MOHAN, J.

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Pre-delivery judgment in
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