IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-02-2026

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL A No. 733 of 2018

M/s.Lambodhara Textiles Ltd.,
Rep. By its Accountant,
Mr.T.G.Manoharan,
S/o.T.Gangadharan,
Having its Registered Office At,
3A, B-Block, 3rd Floor,
Pioneer Apartments, 1075 B,
Avinashi Road, Coimbatore-641 018.

Appellant/Complainant

Vs

1. M/s.Akul Textiles,
Rep By Its Partner,
Mr.K.Mahamuni,
2, Kavya Complex,
Mannan Kadu, AMR Road,
Kangampalayam, Somanur-641 668.

2.K.Mahamuni
Partner, Akul Textiles,
2, Kavya Complex,
Mannan Kadu, AMR Road,
Kangampalayam, Somanur-641 668.

3.Nagaraj
Partner, Akul Textiles,
2, Kavya Complex,
Mannan Kadu, AMR Road,
Kangampalayam, Somanur-641 668.

Respondents/Accused

Prayer: The Criminal Appeal filed under Section 378 of Cr.P.C. praying to set aside the judgment dated 13.12.2017 made in Crl.A.No.137 of 2016 on the file of the V Additional District and Sessions Court, Coimbatore acquitting the respondents and consequently convict the respondent under Section 138 and 142 of the Negotiable Instruments Act, 1881 and also direct the respondent to pay compensation to the appellant.

For Appellant : Mr.K.S.Karthik Raja

For Respondents : Ms.P.Suganthi
Legal Aid Counsel

JUDGMENT

The appellant as complainant filed a private complaint in C.C.No.130 of 2013 for offence under Section 138 of the Negotiable Instruments Act, 1881 (in short 'N.I. Act') against the respondents/accused. The trial Court, by judgment dated 13.10.2016, convicted the respondents and sentenced to undergo six months simple imprisonment and to pay the cheque amount of Rs.28,61,100/- jointly by respondents 1 to 3 as compensation. Aggrieved by the same, the respondents/accused preferred an appeal in Crl.A.No.137 of 2016 before the V Additional District and Sessions Judge, Coimbatore. The learned Sessions Judge, by the judgment dated 13.12.2017, allowed the appeal setting aside the conviction and sentence passed by the trial Court, against which, the complainant had preferred the present appeal.

2.The case of the appellant/complainant is that the complainant is a limited Textile company authorised one Manoharan by Board Resolution dated 19.07.2010 to institute this complaint and prosecute the respondents. The first respondent is a partnership firm and respondents 2 and 3 are its partners. The first respondent placed orders with the appellant for purchase of power loom grey cloth on various dates and the appellant supplied the goods and raised four invoices. Invoice No.12 dated 18.03.2010 for Rs.8,32,143/-, Invoice No.13 dated 19.03.2010 for Rs.8,04,674/-, Invoice No.14 dated 22.03.2010 for Rs.8,84,575/- and Invoice No.15 dated 25.03.2010 for Rs.7,46,208, in total, the grey cloth to the value of Rs.32,67,600/- supplied. After repeated request by the appellant, the respondents issued nine cheques signed by the second and third respondents on behalf of first respondent drawn on IDBI Bank, Tiruppur, which are as follows:

S.No.	Cheque Nos.	Amount in Rs.
1	581691	3,10,000/-
2	581692	3,05,000/-
3	581693	3,00,000/-
4	581694	2,90,000/-
5	581695	2,85,000/-
6	581696	3,15,000/-
7	581697	3,20,000/-
8	581698	3,61,100/-
9	581699	3,75,000/-
	Total	28,61,100/-

3.The above nine cheques when presented for collection through the appellant's bank, State Bank of India, Red Fields, Coimbatore on 28.06.2010. The cheques not honoured and returned for the reason 'Funds Insufficient' with a bank memo dated 30.06.2010. Thereafter, statutory notice issued on 21.07.2010 calling the respondents to pay the amount of Rs.28,61,100/- being the amount covered by nine cheques. The first and third respondents received notice on 26.07.2010 and the second respondent received on 28.07.2010 and they not repaid the amount but sent reply notice dated 31.07.2010 with false averments. Hence, ignoring the same, complaint filed.

4.During trial, on the side of the complainant, PW1 to PW4 examined. PW1, Accountant of the complainant company, PW2, Bank Manager of complainant's bank, namely, State Bank of India, PW3, Bank Manager of the Accused, namely, IDBI Bank and PW4, Manager-Accounts in the complainant company. Through them Exs.P1 to P31 marked. On the side of the accused, no witnesses examined and no documents marked. On conclusion of trial, the trial Court convicted the respondents. The Lower Appellate Court allowed the appeal setting aside the conviction and sentence.

5.The learned counsel for the appellant/complainant submitted that in this case the respondents neither denied nine cheques/Exs.P6 to P14 nor the signature found in Exs.P6 to P14. Thus the statutory presumption under Sections 118 and 139 comes into play. Further it is a business transaction, goods supplied by the appellant covered by invoices/Exs.P2 to P5 and hence the cheques issued in discharge of the liability proved. After dishonour of the cheques, statutory notice/Ex.P24 issued on 21.07.2010. The reply notice/Ex.P28 sent by the respondents with false averment but not denied issuance of the cheques or their signature in cheques, but takes a stand that cheques issued to one Rajendran of M/s.KGR Textiles and the said Rajendran passed on the cheques to the appellant. Further for the liability with Rajendran, the sister of the second respondent executed a sale deed, for a property situated at Thirubuvanam village favouring Rajendran during the year 2010, who in turn, executed a sale deed in favour of one Balu, a close associate of appellant. Thus the liability cleared is the defence taken, but neither the said Rajendran nor the second respondent's sister examined or any document in support of the respondents' contention produced. Considering all these aspects, the trial Court finding that the appellant proved the case against the respondents had rightly convicted the respondents.

6.On the contrary, the Lower Appellate Court set aside the conviction on the reason that Exs.P2 to P5/invoices are though serially numbered and the bill numbers both in seriatim, but dates varies. The first invoice is dated 18.03.2010, second invoice is dated 19.03.2010, third invoice is dated 22.03.2010 and the fourth invoice is dated 25.03.2010 and in the invoices there is a specific column for buyers/brokers signature confirming receipt of goods. In this case, except signature of the authorised signatory of the appellant company, there is no signature by the respondents to prove that goods were really supplied and received. Further gave a finding that invoices ought to be covered by purchase order. Hence, doubted genuineness of Exs.P2 to P5, failing to look into the fact that nine cheques issued, had handwriting and signature, all identical, not seriously disputed by the respondents. The only defence taken is that cheques were given to one Rajendran of M/s.KGR Textiles. Except such reference made in the reply notice/Ex.P28, there is nothing further. Neither the Rajendran nor the second respondent's sister examined in this case and no sale deed documents produced. Hence, the finding of the Lower Appellate Court is perverse.

7.He further submitted that in this case PW1 is the Accountant and PW4 is the Accounts Manager both clearly deposed the business done by the appellant with the respondents, supply of grey cloth, raising of invoices and receipt of cheques. PW1 confirmed Sales Tax Returns filed and sale between the appellant and the respondents disclosed. PW4 was questioned on the same line who corroborated PW1. Further Exs.P29 and P30 marked through PW2 and PW3, the Bank Managers, not cross-examined. Exs.P29 and P30/Statement of Accounts confirm presentation of the cheques and dishonour of the cheques. Ex.P31 is Ledger Account, spoken by PW4. Thus the appellant proved respondents issued the cheques in discharge of liability for the business transaction, the trial Court rightly considered and convicted the respondents. But the Lower Appellate Court allowed the appeal setting aside the conviction on the ground that Exs.P2 to P5 not signed by the respondents and supply of goods not proved, discarding other evidence, is not proper, the appellant proved that the cheques/Exs.P6 to P14 issued in discharge of liability.

8.In support of his contention, the learned counsel relied on the decision of the Hon’ble Apex Court in the case of *Rohitbhai Jivanlal Patel vs. State of Gujarat and another* reported in *(2019) 18 SCC 106* for the point that mere denial or mere creation of doubt, would not rebut presumption under Section 139 of N.I. Act and after drawing the presumption under Section 139 of N.I. Act, onus shifted to the accused unless he discharged onus by bringing on record such facts and circumstances as to show preponderance of probabilities tilting in his favour, causing doubt in the case of the complainant. Then only the accused can be discharged. In this case, the appellant produced sufficient materials and evidence to prove that cheques/Exs.P6 to P14 issued in discharge of the liability. Hence, prayed for setting aside the judgment of acquittal rendered by the Lower Appellate Court and consequently confirm the conviction of the respondents by the trial Court.

9.The learned counsel for the respondents submitted that in this case the trial Court merely gone by the statutory presumption under Sections 118 and 139 of N.I. Act finding that issuance of cheques and signature not denied and convicting the respondents is not proper. During trial, the respondents questioned the veracity and genuineness of Exs.P2 to P5, the invoices produced by the appellant to show grey cloth supplied. On bare perusal of Exs.P2 to P5, it is seen that all the four invoices are in seriatim, but drawn on different dates. Likewise, the bills are also in serial. The value of the goods supplied through the invoices is around Rs.32,67,600/-. On the contrary, the cheques/Exs.P6 to P14, said to have been given in discharge of this liability is only for Rs.28,61,100/-. There is no correlation between the cheques and the invoices, which the trial Court failed to consider. Further in the invoices/Exs.P2 to P5, there is particulars with regard to the vehicle number, by which the goods transported. All invoices carry vehicle number but in none of the vehicle trip sheets and details of the driver of the vehicle mentioned or any other supporting documents produced to confirm that goods really transported from the appellant company delivered to the respondents.

10.Likewise there is a column for delivery of goods. In respect of four invoices, there is nothing to show that goods delivered and respondents acknowledged the delivery. During cross-examination, specific question put to PW1 and PW4 questioning purchase order, both admit, only on purchase order goods will be supplied. Despite specific question, no purchase order produced. Further PW4 admits that for the first time the respondents had business with the appellant in the year 2010 and the appellant case is that goods were supplied on credit basis. When there is no other business relationship, it is highly improbable to supply the goods on credit basis and that too, when cheques issued three months after the supply of goods. The other document Ex.P31-Ledger Account of the appellant conveniently produced only from 01.06.2010 to 01.09.2010. The ledger account maintained in the normal course of business can be considered. The appellant ought to have produced the ledger account pertaining to the month of March, 2010 to show that there was supply of goods on credit basis and the same is reflected in the ledger account.

11.He further submitted that in the reply notice/Ex.P28 the specific denial of liability raised by the respondents stating that there was some dues with one Rajendran of M/s.KGR Textiles, and sale deed executed and the liability discharged. Using the cheque given to Rajendran, the above case projected against the respondents. In this case second respondent's sister Tirupathi executed a sale deed in favour of Rajendran in Doc.No.1403/2010. The said Rajendran executed the same in favour of one Balu, who is employed in the appellant's company. Appellant neither examined Rajendran nor Balu. PW1 admits that Balu is the Factory Manager. The Lower Appellate Court found that Exs.P2 to P5 is to the tune of Rs.32,67,600/- but the cheques/Exs.P6 to P14 issued in discharge of supply of goods is only for Rs.28,61,100/-. There is no one to one correlation. Further, Exs.P6 to P14 all cheques are dated 28.06.2010 presented on the same day. There is no proper reason given as to how and why nine cheques given in one day.

12.Further it had also given a finding that in Exs.P2 to P5, there is no authentication to confirm Exs.P2 to P5 are covered with any purchase order.

Though Exs.P2 to P5/invoices are for various dates for a period of one week, the invoices are serially numbered and bills also serially numbered and it is highly improbable that for one week there is no other business by the appellant, hence, Exs.P2 to P5 becomes highly doubtful and these documents not in corroboratory to Exs.P6 to P14. Likewise Ex.P31 produced in part deducting deposit and return of the cheques/Exs.P6 to P14. The Lower Appellate Court found that the stand taken by the respondents in their reply notice that the cheques were given in security to one Rajendran of M/s.KGR Textiles, thereafter not produced any materials in support of the said contention. Considering the same, in conjunction with the primary contention that no goods or materials supplied to the respondents gains significance. In such circumstances, the burden shifts on the appellant to prove that the goods supplied and cheques issued in discharge of the said liability. Considering all these aspects, finding that the judgment of the trial Court is without proper reasoning, the Lower Appellate Court set aside the conviction and acquitted the respondents and the same to be confirmed.

13.In support of his contention, the learned counsel relied upon the decision of Hon’ble Apex Court in the case of *Jay Ambe Industries Proprietor Shri Dineshkumar Bajranglal Somani vs. Garnet Specialty Paper*

Ltd. reported in *2022 SCC OnLine Guj 2258* for the point that ledger by itself may not be the proof of transaction and no liability can be fastened on the basis of an entry in the ledger alone unless it is corroborated by some other evidence. He further relied upon the judgment of Manipur High Court in the case of *Shri Manoj Kumar Jain vs. Shri Mahendra Kumar Jain* in *Cril.Appeal No.24 of 2023* for the point that mere admission of signature of the accused on the cheque will not attract the presumption under Section 139 of N.I. Act. It is for the complainant who is, at first instance, to establish the existence of debt or liability and the statutory presumption will operate only after such establishment. Hence, prayed for dismissal of the appeal.

14.Considering the submissions made and on perusal of the materials, it is seen that the admitted position of the appellant/complainant is that the appellant supplied grey cloth covered under Invoices/Exs.P2 to P5 to the respondents and Exs.P2 to P5 are for a period of one week, i.e., Invoice No.12 dated 18.03.2010 for Rs.8,32,143/-, Invoice No.13 dated 19.03.2010 for Rs.8,04,674/-, Invoice No.14 dated 22.03.2010 for Rs.8,84,575/- and Invoice No.15 dated 25.03.2010 for Rs.7,46,208/-. The serial number and bill number are consecutive. For one week no other invoices raised and no goods supplied by the appellant, which is highly doubtful. Further in Exs.P2 to P5, vehicle number recorded. When the appellant was questioned with regard to genuineness of the supply of grey cloth, appellant ought to have examined or produced any materials to show the vehicle details and its driver. Though the appellant took a stand that vehicle was sent by the respondents to collect goods, in any event, based on the vehicle number further details can be collected from transport department but the appellant failed to do so.

15.Further Exs.P6 to P14/cheques said to be issued in discharge of the liability for receipt of grey cloth covered under Exs.P2 to P5. In this case, all the cheques dated 28.06.2010. There is no correlation or reason given as to how these cheques were issued. In the invoices, there is a specific column for the buyer receiving goods and space for acknowledgement. In this case, the said column is left blank. PW1 and PW4 admit that goods supplied only against purchase orders, however, no purchase orders produced. Further, PW4 admits that respondents is known to him only from the year, 2010. In this case, the goods supplied during March, 2010, whereas the cheques issued in June, 2020. It is highly improbable, for a new business proposal such credit will be given, without any security or supporting materials, which further causes serious doubt with regard to the genuineness of Exs.P2 to P5. The respondents sent a reply to the statutory notice even as early as on

31.07.2010, in which it is clearly stated that there was business transaction between the respondents with one Rajendran of M/s.KGR Textiles and the property of second respondents' sister settled in favour of Rajendran in Doc.No.1403/2010, who in turn settled the same to one Balu, Factory Manager employed in the appellants factory, confirmed by PW1. No reason or clarification given by the complainant.

16.The Lower Appellate Court finding that the foundational fact is that, appellant supplied grey cloths, covered by Exs.P2 to P5 which is highly doubtful, since Exs.P2 to P5 are not covered with any purchase order and there is no signature of the buyer and the particulars recorded in invoices are doubtful. The cheques Exs.P6 to P14 are said to have been issued in discharge of the liability. When the foundational fact becomes highly doubtful and issuance of cheques becomes questionable. When the basic fact is disputed, then the onus shifted back to the appellant to prove that Exs.P6 to P14/cheques were issued in discharge of legally enforceable liability. In this case Exs.P2 to P5, the invoices but the appellant not produced any materials on record to establish the same. Thus the respondents rebutted the presumption and probabilised their defence. The Lower Appellate Court considering the same rightly acquitted the respondents. In view of the above, this Court finds no reason to interfere with the well reasoned judgment of the Lower Appellate Court.

17.In view of the same, the Criminal Appeal stands dismissed. The judgment of acquittal of the respondents passed by the learned V Additional District and Sessions Judge, Coimbatore in Crl.A.No.137 of 2016 dated 13.12.2017, is hereby confirmed.

18. This Court appreciates the service rendered by Ms.P.Suganthi, learned Legal Aid Counsel for the respondents. The Tamil Nadu State Legal Services Authority shall pay the remuneration to Ms.P.Suganthi, Legal Aid Counsel.

05.02.2026

Index : Yes / No
Neutral citation : Yes / No
Internet : Yes/No
Speaking / Non-speaking order
rsi

M.NIRMAL KUMAR, J.

rsi

To

1.The V Additional District and Sessions Judge,
Coimbatore.

2.The Judicial Magistrate,
Fast Tract Court No.I @ Magisterial Level,
Coimbatore.

CRL A No.733 of 2018

05.02.2026