IN THE COURT OF XXXVII METROPOLITAN MAGISTRATE/FTC-IV,
GEORGE TOWN, CHENNAI –01
PRESENT :Tmt.R.Suganthi, B.A., M.L.,
XXXVII METROPOLITAN MAGISTRATE/FTC- IV
Tuesday, the 21st Day of July, 2026
STC. No.1978 of 2024
CNR.No.TNCH0B-007977-2024

JUDGMENT UNDER SECTION 355 of Cr.P.C

1) SUMMARY TRAIL CASE NO	:	1978/2024
2) DATE OF OFFENCE	:	30.04.2024 (15 days after receipt of notice)
3) NAME OF THE COMPLAINANT	:	T.Arunkumar, Son of Thirumalai, New No.6, Old No.18, Bajanai Koil Street, Royapuram, Chennai-600013.
4) NAME OF THE ACCUSED	:	Mr.S.Padmanaban, Son of T.V.Subramani, No.4/6, 10th Main Road, 1st Cross Street, Thiruvallur Nagar, Kodungaiyur, Chennai-600118.

This case is coming on for final hearing on 10.07.2026 in the presence of M/s.S.Kamala and M.Premkumar Counsel for the Complainant and Mrs.M.Anitha Counsel for the Defence and stood before me for consideration till date and this court deliver the following judgment.

5) <u>CASE OF THE COMPLAINANT :</u>

a) The accused herein is the friend of the complainant and using that friendship in the month of December 2023 the accused approached the complainant and obtained for an amount of Rs.10,00,000/- for his urgent need and the accused assured and undertake to repay the loan amount received from him within six month. The accused had issued a cheque dated 04.04.2024 for an amount of Rs.10,00,000/- towards the discharge of his liability.

b) As per instruction of the accused, the complainant had presented the above said cheque for realization on 04.04.2024 but the same got dishonoured and returned on 05.04.2024 for the reason of “Funds Insufficient”. The complainant issued a legal notice on 15.04.2024 calling upon to pay him to pay the cheque amount within 15 days from the date of receipt of that notice and the said notice was duly received by the accused on 16.04.2024. But till date he never paid above said cheque amount nor sent any reply to the complainant. Therefore instant complaint filed.

6) <u>THE PLEA OF ACCUSED AND EXAMINATION</u>:

On appearance of accused copies relied on by the complainant were supplied to the accused free of cost as per section 208 Criminal Procedure Code. The accusation under 138 Negotiable Instrument Act were read and explained to the accused. The accused is denied the accusation and pleaded as not guilty.

The incriminating evidence against the accused adduced by the complainant were read and explained to the accused under section 313 Criminal Procedure Code. The accused is denied the evidence of the complainant as false and stated "ஜோதி என்பவரிடம் நான் கொடுத்திருந்த வழக்கு காசோலைகளை அவர் கணவரிடம் கூறி உறவினரிடம் கொடுத்து இந்த பொய்வழக்கு தாக்கல் செய்துள்ளார்" on the side of the defence, no oral and documentary evidence let in.

7) **<u>FINAL ORDER :</u>** The accused is found guilty for the aforementioned offence and convicted under section 255(2) Criminal Procedure Code.

8) <u>DATE OF JUDGMENT :</u> 21/07/2026

9) <u>POINT FOR DETERMINATION:</u>

(i). Whether the complainant has established case against accused U/s.138 Negotiable Instrument Act beyond any doubts?

(ii). Whether the accused has successfully rebutted the presumption raised infavour of the complainant through his defence of preponderance of probability?

10) <u>DECISION AND REASON:</u>

It is the case of the complainant that, the accused is friend of complainant, due to said acquaintance in the month of December, the accused has approached the complainant and availed a sum of Rs.10,00,000/- for his urgent purpose and agreed to repay the same within 6 months, towards discharge his liability, the accused had issued a cheque dated 04.04.2024 for a sum of Rs.10,00,000/- .The same was presented for encashment through his banker Bank of Baroda, Royapuram Branch, Chennai, but the said cheque was dishonoured for the reason “Funds Insufficient” on 05.04.2024. Thereinafter the complainant has got issued legal notice to the accused through register post on 15.04.2024 and the same was received by the accused on 16.04.2024 and the accused did not given any reply notice and till date no payment was made by accused. Therefore instant complaint filed.

After presentation of complaint, this Court took cognizance of offence and recorded the sworn statement of complainant. Thereafter, a criminal case is registered against accused and summons is issued to the accused. The accused appeared through his counsel. The copies of the complaint and other papers furnished to the accused. Substance of accusation was read over to him. Accused has pleaded not guilty and claimed to be tried.

In order to prove the accusation made against accused, the complainant has got examined himself as PW1 and got marked 4 documents as Ex.P1 to Ex.P4. Thereafter, statement of accused was recorded u/s.313 of Cr.P.C. Wherein the accused has denied the incriminating evidence found on record as false and stated that the accused has given cheques to one Jothi who has given the same to her husband and misused, filed instant case by her husband and he would lead defence evidence but no defense evidence let by accused and no documents also marked by him.

Heard the arguments of learned counsel for complainant and accused perused written arguments filed by them.

Before proceeding with the discussion, in order to prove the guilt of offence under section 138 of N.I.Act, initial burden casts on the complainant to prove the following ingredients:

a) The cheque must have drawn for discharge of existing debt or liability.

b) Cheque must be presented within Validity period.

c) Cheque must be returned unpaid due to insufficient funds or it exceeds the amount arranged.

d) Fact of dishonour be informed to the drawer by notice within 30 days.

e) Drawer of cheque must fail to make payment within 15 days of receipt of the notice.

In order to prove the case, the complainant – Mr.T.Arunkumar, has examined himself as PW1. The PW1 has filed an affidavit in lieu of examination-in-chief reiterating entire complaint averments. In support of her oral evidence, he produced Ex.P1 to Ex.P4 documents. The complainant got marked Cheque bearing No.222364 as Ex.P1, Return Memo as Ex.P2, Legal Notice as Ex.P3, Acknowledgement Card as Ex.P4.

It is the case of the complainant that, the accused is friend of complainant, due to said acquaintance in the month of December, the accused has approached the complainant and availed a sum of Rs.10,00,000/- for his urgent purpose and agreed to repay the same within 6 months, towards discharge his liability, the accused had issued a cheque vide Ex.P1 dated 04.04.2024 for a sum of Rs.10,00,000/- .The same was presented for encashment through his banker Bank of Baroda, Royapuram Branch, Chennai, but the said cheque was dishonoured for the reason “Funds Insufficient” vide Ex.P2 on 05.04.2024. Thereinafter the complainant has got issued legal notice vide Ex.P3 to the accused through register post on 15.04.2024 and the same was received by the accused vide Ex.P4 on 16.04.2024 and the accused did not given any reply notice and till date no payment was made by accused. Therefore instant complaint filed.

He further argued that he has not denied Ex.P1 being his cheque drawn on his account. When the signature is not seriously disputed, the presumption u/s.139 is to be drawn in favour of complainant. He further argued that the accused has failed to produce any believable evidence that the dispute cheque was not issued to him to discharge legally enforceable liability.

The learned counsel for the accused argued that the complainant suppressed the relationship between the parties and wrongly stated the accused his friend of complainant. Further argued that the complainant co-brother wife namely Gajalakshmi employed under the accused and she has access the accused office as well as accused cheque book, the two consecutive signed cheques of accused were taken from the accused possession and misused by his relatives and filed two separate false cases against accused. Therefore there is no legally enforceable liability towards complainant and claimed to acquit from this case.

Heard and perused. As per the case of complainant the accused borrowed a sum of Rs.10,00,000/- from the complainant and issued the case cheque on 04.04.2024 vide Ex.P1, when presented the same was dishonored as "Funds Insufficient" vide Ex.P2 for which the complainant has issued legal notice vide Ex.P3 even after receipt of the same vide Ex.P4 the accused did not comforward to issue reply to the complainant.

Per contra the contention of the accused never borrowed any amount from the complainant and one of the relative of accused namely Gajalakshmi was employed under accused, when she was access to the accused office and taken the accused signed cheques which was given to her husband and same was misused by them therefore there is no legally enforceable liability towards complainant.

According to the accused he never borrowed any amount from the complainant and his employee namely Gajalakshmi was taken his signed cheques from the possession of complainant without his knowledge, which was misused by her. In order to prove the same the accused not examined anyone on his side. However, it is noted that the accused has received the legal mandatory notice issued by the complainant vide Ex.P3, Ex.P4. When the accused has knowledge about his cheques were misused then why he did not given any reply to the legal mandatory notice and raised his presumption in earlier stage. Further when the accused has knowledge of his cheque was misused by one Gajalakshmi who is relative of him, why he has not taken any legal action against the alleged Gajalakshmi by way of giving police complaint. Further it is also noted that when the accused received the legal mandatory notice and having knowledge of misuse of his cheque why he has not taken an any legal steps as against complainant for misuse of his cheque, no explanation on the side of accused. Without taken any legal action against alleged Galakshmi and complainant mere denial of case of complainant is not sufficient to rebut the presumption raised in favour of complainant. As per Ex.P.1 to Ex.P4 the complainant established his case. It is pertinent to noted that the accused never denies the signature found on the dispute cheque. The onus would still be on the accused to prove that the cheque was not in discharge of a debt or liability by adducing evidence. It is not a case that there is ill-will between complainant and accused. Though the accused taken defense that the alleged Gajalakshmi illegally taken accused cheques from his possession, when being so the fact that the accused never given any police complaint against neither Gajalakshmi nor complainant, it presumes that the accused voluntarily issued that towards discharge his legal liability. The accused did not adduce any cogent evidence that the cheque was not issued for legally enforceable debt or liability.

Therefore in view of the foregoing discussions, it is clear that the accused never rebutted the presumption by way of adducing probable defense. Mere raising inconsistencies of complaint is not sufficient to rebut the presumption therefore the accused failed to rebut the presumption that the accused is convicted.

Once the initial burden is discharged by the complainant that the cheque is issued by accused, the burden costed on the accused to prove the contrary that cheque is not issued for any debt or other liability. However in this case accused has failed to make probable defense to rebut the presumptions. The defence of accused is found self serving statement and it is not sufficient to rebut the presumptions. Hence, on the basis of the evidence of PW1 and Ex.P1 to Ex.P4 documents, the complainant has proved the case and complainant is entitled for recovery of the amount as compensation. Hence, the accused is convicted.

11) COMPENSATION:

(a) This Court has held that there is a legally enforceable debt is proved by the complainant. Hence the amount covered under cheque can be awarded as compensation.

(b) Hence in the result, the accused is found guilty for committing offence under Section 138 of the Negotiable Instruments Act and convicted Under section 255(2) Criminal Procedure Code and the accused is directed to undergo simple imprisonment for a period of 6 months and the accused is directed to pay the cheque amount Rs.10,00,000/- as compensation Under section 357(3) Criminal Procedure Code to the complainant, in default to undergo simple imprisonment of 2 months.

Office to supply the copy of this judgment to the accused immediately on free of cost.

Dictated by me to the Steno Typist, typed by him directly in the Computer, corrected and pronounced by me in the open court on this 21st day of July, 2026.

SUGANTHI VINOTHKUMAR

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Date: 2026.07.21 17:10:58 +0530

XXXVII Metropolitan Magistrate/FTC-IV,
George Town, Chennai-1.

Annexure:

List of complainant Witness

P.W.1 - Mr.T.Arunkumar

List of complainant Exhibits:

Ex.P.1	04.04.2024	Cheque bearing No.222364
Ex.P.2	05.04.2024	Return Memo
Ex.P.3	15.04.2024	Legal Notice
Ex.P.4	16.04.2024	Acknowledgement Card

List of Defence Witnesses : Nil

List of Defence Exhibit : Nil

SUGANTHI VINOTHKUMAR

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XXXVII Metropolitan Magistrate/FTC-IV,
George Town, Chennai-1.