IN THE COURT OF THE SUBORDINATE JUDGE OF TIRUR
Present :- Smt. Vincy T.V, Subordinate Judge

Monday, the 2nd day of March, 2026
11th day of Phalguna, 1947

ORIGINAL SUIT No. 58 OF 2019

Between :

Mohammed Basheer, 50 years,
S/o. Kainikkara Mammi,
Thekkan Kuttoor amsom and desom,
Tirur Taluk.
— Plaintiff

And :

Siddik Ramanalukkal, 45 years,
S/o. Saithu Muhammed Haji,
Ramanalukkal House,
Market Road, Thalakkadathur,
Tirur Taluk.
— Defendant

This Suit coming on the 30th day of January, 2026 for hearing before me in the presence of Sri. K.P. Khaleel Ibrahim, Advocate for the plaintiff and of Sri. Nazir Ahamed, Advocate for the defendant and having stood over to this day for consideration, the Court delivered the following:

J U D G M E N T

The suit is filed for realisation of money.

2. The case of the plaintiff is as follows :- The defendant borrowed an amount of ₹65,00,000/- by way of installment and on demand the defendant issued a cheque for ₹65,00,000/- dated 15.09.2016. Even if it was presented before Axis Bank, Tirur Branch wherein the plaintiff is maintaining account. It was dishonoured due to insufficient fund in the account with an endorsement ‘kindly contact drawer, drawee bank and please present again’. Even after issuing notice dated 28.09.2016 demanding the repayment of the amount intimating the fact of dishonour the defendant unclaimed the notice. Hence the suit.

3. The defendant filed written statement contending as follows:- No amount has been borrowed by the defendant as averred in the plaint and no cheque was also issued dated 15.09.2016 for an amount of ₹65,00,000/-. The cheque which is presented along with the plaint is a forged one. It is not issued by the defendant to the plaintiff. The entries in the cheque was not done by the defendant. The plaintiff has no financial capacity and source of income to lend such an amount to the defendant. No notice also has been received by the defendant herein. Other facts stated in the plaint is false and unknown to the knowledge of the defendant. No financial transaction has been performed in between the plaintiff and defendant. The plaintiff is a financier and the defendant borrowed only an amount of ₹5,00,000/- for expanding his business and at the time of borrowal he demanded a blank signed cheque of the defendant. Only due to the pressure of the circumstances the defendant has given the blank signed cheque to the plaintiff at the time of borrowal of ₹5,00,000/-. It is in the presence to of the common friend of plaintiff and defendant Mr.Nisami. The amount was borrowed for a period of 1 month but due to the financial difficulties the

defendant could not able to return the said amount within the promised period but he could able to clear the debt within 3 months and at the time when the defendant approached the plaintiff with the amount to clear off the debt and for taking back the cheque the plaintiff demanded partnership in the defendant's business. As it was denied by the defendant, he refused to return the cheque by stating that it was entrusted with another person. At that time the defendant refused to handover the amount and informed the plaintiff that only he returned the cheque the amount will be handed over. That leads to a confrontation in between the plaintiff and defendant and the plaintiff threatened the defendant. Even if the plaintiff approached the Tirur Police, as the plaintiff is a highly influential person the police failed to proceed with the matter. That leads the plaintiff to file a false case against the defendant. Hence the suit is liable to be dismissed.

4. On the basis of aforesaid pleadings following issues were framed:

1. Is the plaintiff entitled to realise any amount from the defendant?
2. If so, what is the sum to which plaintiff entitled?
3. Reliefs and costs?

5. On the side of the plaintiff, PW1 was examined and Exts.A1 to A7 were marked. On the side of the defendant, DW1 and DW2 were examined and Exts.B1 to B4 were marked.

6. Heard.

7. **<u>Issue Nos.1 to 3</u>**:- The case advanced from the part of the PW1 is that he has advanced ₹65,00,000/- on different occasions to the defendant

and in order to discharge the said debt the defendant has issued a cheque bearing dated 15.09.2016 for an amount of ₹65,00,000/-. Certified copy of the cheque is produced and marked as Ext.A1. When it was presented through Axis Bank, Tirur Branch, to the Indian Overseas Bank, Tirur Branch, it was dishonoured as evident from Ext.A2. Even after notice was issued informing the same demanding the payment as evident from Ext.A3 it was unclaimed by defendant as seen from Ext.A4.

8. During cross-examination PW1 deposed that the first transaction between the plaintiff and defendant was in the year 2015 and he has given the entire amount to the defendant by way of 7 instalments. The first payment was on 14.01.2015 at defendant’s Clinic for an amount of ₹9,00,000/- by way of cash since he has close acquaintence with the defendant has not insisted for any receipt. The second transaction was on 07.10.2015 for an amount of ₹7,00,000/-, the third transaction was on 08.10.2015 for an amount of ₹6,00,000/-, the fourth transaction was for an amount of ₹5,00,000/- on 12.10.2015 and 5th transaction was on 19.10.2025 and the sixth transaction was on 19.12.2015 for an amount of ₹19,00,000/-. According to him, that was raised from the advance given while letting out his building. The last transaction was on 15.01.2016 for an amount of ₹16,40,000/-. The said amount was also given from the advance amount which he received while letting out his building. Thus according to him, the transaction for an amount of ₹65,00,000/- was done within a year.

9. The case of defendant is that a blank signed cheque was handed over to the plaintiff which he borrwed an amount of ₹5,00,000/- in the year 2014. The defendant even if admitted signature in Ext.A1, questioned the source of the plaintiff to raise such a huge amount. DW1, deposed as to his

real estate business and the fact of ending of the business in the loss. According to him, he started real estate business in the year 2010. Admittedly, there were financial cases against him due to his loss in the business. PW1 put up DW2 as a witness to substantiate his defence. During cross-examination DW1 denied emerging of any dispute in between DW1 and DW2. But Exts.A6 and A7 are produced in order to show that there were dispute in between DW1 and DW2 arising out of an agreement for sale. That some what shaken the credibility of DW1. DW1 deposed that DW2 is a partner to his partnership and they were acquainted with each other. Even if DW1 questioned the source of the plaintiff, he deposed that plaintiff has travel agency as his own and according to him, he is a financier engaged in financial business. He also deposed that DW2 also borrowed money from the plaintiff. Later DW1 turned up and deposed that he has no awareness that PW1 lended money to any person other than DW1 and DW2. During cross-examination, he admitted that the plaintiff has sufficient capacity to lend money but he expressed his unawareness regarding the maximum amount which he could lend. Even if he want to set up a case of borrowing ₹5,00,000/- from the plantiff he could not even depose the date in which he thus borrowed. Even if Ext.B2 passbook was produced stating that all the transaction through the cheque leaves issued under Ext.B1 can be seen from Ext.B2, during cross-examination DW1 turned up and stated that it is not seen in Ext.B2. In Ext.B2 only four transactions with cheque leaves is visible but he could not state anything regarding the remaining 6 cheque leaves. Hence Exts.B1 and B2 in no way help DW1 to substantiate his case. According to DW1, for a transaction involving ₹50,00,000/- he approached the plaintiff. Hence admittedly there were financial emergency to DW1 during that period. The evidence of DW1 would show that DW1 and DW2 are closely acquainted with each other and involved in many transaction. According to DW1, DW2 is using DW1's Benz car.

10. According to DW2, he had a business in the name of 'Stable Builders' with the plaintiff. That was not in existence now. It was formed in the year 2012. Now he has a company formed along with the defendant in the name of 'Stay Bridge Developers and Builders'. He also deposed that along with the defendant he formed another company in the name of 'Ornika Builders'. Thereafter, witness alters and deposed that it was 'Stay Bridge Builders'. DW1 also deposed as to the fact that DW2 owes amounts to plaintiff. The evidence as to involving financial dealing with plaintiff and DW2 and existence of debts and the strong acquaintance with DW1 towards DW2 turned DW1 as an interested witness.

11. PW1 adduced evidence to the effect that the cheque was filled and the date was also inserted in the hand writing of the defendant himself. The defendant did not deny his signature in Ext.A1 cheque, instead he put a case as to handing over the cheque with respect to other transaction. The only dispute raised is the capacity of PW1 in raising a huge amount. The evidence on record would show that the defendant DW1 was at financial crisis and even during the period of such borrowal the evidence on record would show that there is nothing to question the financial capacity of PW1. Besides that Ext.A5 series are the documents which produced from the defendant in order to show that he owned building in his name which is being used for the purpose of shop rooms with Door No.779, 786, 787, 788, 789, 790, 791, 792, 793, 794, 796, 797, 798, 799, 799/A, 800, 801, 802, 803, 804, 960, 962, 963, 964, 965, 965/a, 965/b 965/c, 965/d and 965/e.

12. The defence initially set up by the defendant is a total denial of the transaction. Subsequently, he has taken a plea that he had borrowed only ₹5,00,000/- and had issued a blank signed cheque as security. Such a inconsistent plea taken at different stage initially and materially affect the credibility of the defence. Further, the defendant has no definite case regarding the exact date of the alleged borrowal of ₹5,00,000/-. In his deposition DW1 stated that the borrowal was in the year 2014, whereas DW2 stated that it was in September or October. Such a case is not even raised by DW1. These versions are not only inconsistent inter se but also inconsistent with the pleadings. The plea that the cheque was obtained by fraud is a serious allegation which requires specific pleading and strict proof. Except a bald allegation no material particular of the alleged fraud have been pleaded or proved. DW2 himself admitted that he has no knowledge as to who filled up the cheque. When the signature is admitted and there is no convincing evidence to show that the cheque was misused the mere plea that it was issued as a blank security cheque is not sufficient to discharge the burden. The contention that the plaintiff had no financial capacity to advance the amount is also not substantiated. Ext.A5 series documents show that the plaintiff is the owner of several rooms at Tirur bus stand, thereby indicating financial standing. Moreover, during cross-examination DW1 admitted the financial capacity of the plaintiff. Therefore, the plea regarding lack of financial capacity cannot be accepted.

13. In a suit for money based on cheque, no doubt an initial burden is cast upon the plaintiff to prove the transaction, lead to execution of the cheque. In such a suit, if the transaction leading to the issuance of the cheque is admitted or the same is proved, then the plaintiff would get the benefit of

presumptions under Sections 118 and 139 of the Negotiable Instruments Act, 1881.

14. But, the presumptions are rebuttable and for which the defendant can rely on the evidence already adduced by the plaintiff and can also adduce independent evidence. Here, the question that arises for consideration is, whether the plaintiff discharged his initial burden in the matter of proving the transaction, which led to execution of the Ext.A1 cheque. It is true that particular date of transactions were not mentioned in the plaint. But during cross-examination the evidence as to each particular transactions with minute details has come into evidence.

15. On appreciation of the evidence, the case of the plaintiff as to borrowing of ₹65,00,000/- during 2016, by the defendant and consequential issuance of Ext.A1 cheque were proved by the evidence of PW1, since the evidence given by PW1 in this regard was not shaken. The defendant, in fact, had inconsistent contentions.

16. Therefore, presumptions under Sections 118 and 139 of the Negotiable Instruments Act is to be adjudged in favour of the plaintiff. The inconsistent case put up by the defendant is not supported by even remote piece of evidence and DW2's evidence cannot be relied on since highly interested testimony, therefore the said case not at all established, inturn the presumptions in favour of the plaintiff is not rebutted. In the circumstances, suit is liable to be decreed.

In the result,

The suit is decreed as follows :

1. The defendant is directed to pay an amount of ₹65,00,000/- (Rupees Sixty Five Lakhs only) along with interest at the rate of 7% per annum from the date of suit to the date of decree and thereafter at the rate of 6% per annum till realisation.
2. The defendant is also directed to pay the costs of the suit to the plaintiff.

(Dictated to the Confidential Assistant, transcribed by him, corrected by me and pronounced in open Court, on this the 2nd day of March, 2026)

Sd/-
SUBORDINATE JUDGE

A P P E N D I X :

Witness examined for plaintiff :
PW1 : K. Mohammed Basheer examined on 03.06.2025

Exhibits marked for plaintiff :
A1 : Certified copy of the Cheque No. 681759 dated 15.09.2016
A2 : Certified copy of CTS return memo dated 21.09.2016
A3 : Certified copy of registered lawyer notice dated 28.09.2016 with postal receipt
A3(a) : Copy of unserved letter cover with postal receipt
A4 : Certified copy of acknowledgment card
A5 : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(a) : Building certificate issued by Tirur Municipality dated 03.07.2025

A5(b) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(c) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(d) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(e) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(f) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(g) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(h) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(i) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(j) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(k) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(l) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(m): Building certificate issued by Tirur Municipality dated 03.07.2025
A5(n) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(o) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(p) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(q) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(r) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(s) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(t) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(u) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(v) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(w) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(x) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(y) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(z) : Building certificate issued by Tirur Municipality dated 03.07.2025
A5(aa): Building certificate issued by Tirur Municipality dated 03.07.2025
A5(ab): Building certificate issued by Tirur Municipality dated 03.07.2025
A5(ac): Building certificate issued by Tirur Municipality dated 03.07.2025
A6 : Certified copy of sale agreement dated 24.12.2013
A7 : Certified copy of plaint in O.S. 77/2020 of this Court dated 03.10.2020.

Witness examined for defendant :

DW1 : Siddik Ramanalukkal examined on 19.07.2025

DW2 : Nisami examined on 24.10.2025

Exhibits marked for defendant :

B1 : Cheque book without Cheque leaves

B2 : Passbook from Indian Overseas Bank of Sri. Siddik Ramanalukkal

B3 : Certified copy of deposition of PW1 in S.T. 211/2017 examined on 25.09.2025 of Judicial First Class Magistrate-II, Tirur.

B4 : Copy of Petition filed by Sri. Saidh Muhammed Ramanalukkal before the District Police Chief, Malappuram dated 19.12.2019

Sd/-
SUBORDINATE JUDGE

Typed by : Najuma C.M.
Compared by : 1. Najuma C.M.
2. Sreekumari L.

FAIR JUDGMENT
IN O.S. 58/2019
DATED 02.03.2026.