

**IN THE COURT OF THE I ADDITIONAL SESSIONS JUDGE, ERODE.**

Present : Tmt. J.A.Kokila. M.A. M.L.,  
I Additional Sessions Judge.

Friday, the 28<sup>th</sup> day of March' 2025

**Criminal Appeal No. 259 of 2023**  
(CNR. No.TNED01-004538-2023)

against

**STC.No.161 of 2019**

|                                                |                                                                                                                                                                                            |
|------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| From which court the appeal has been preferred | The Judicial Magistrate Fast Track No.I, Erode.                                                                                                                                            |
| Number of the case in that Court               | S.T.C. No.161/2019                                                                                                                                                                         |
| Number of the case in the appeal               | Criminal Appeal No.259 of 2023                                                                                                                                                             |
| Name and Description of the Appellant          | Mrs. R.Suganya (Age 30)<br>W/o. P.Dinesh Kumar,<br>38/1, Thilagar Street,<br>(Durga Fancy Store House)<br>Opp. Muthumariamman Kovil,<br>Periyavalasu, Erode – 638 004.                     |
| Name and Description of the Respondent         | A.M.Subashankar,<br>S/o. Manikkam,<br>D.No.3/2A,<br>Near Sathyamurthy Hospital,<br>Perundurai Road, Erode – 638 011.                                                                       |
| The Order and law under which it was passed    | The accused was found guilty of committing the offence punishable under Section 138 of the Negotiable Instruments Act and was convicted and sentenced to undergo simple imprisonment for 3 |

|                                         |            |                                  |                                                                                                                                                                                                                                                                                                                                                                                  |                                |                      |
|-----------------------------------------|------------|----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------|
|                                         |            |                                  | months and awarded a compensation of Rs.1,25,000/-. In default, to undergo one month simple imprisonment.                                                                                                                                                                                                                                                                        |                                |                      |
| Whether confirmed, modified or reversed |            |                                  | <b>In the result,</b><br>(1) This Criminal Appeal is allowed and the judgment and the sentence passed by the learned Judicial Magistrate, Fast Track No.I, Erode in S.T.C. No.161/2019 dated 07.07.2023 is hereby set aside.<br>(2) The appellant/ accused is hereby acquitted and the bail bond if any, executed by the appellant/ accused and on her behalf stands discharged. |                                |                      |
| Presentation                            | Filing     | Notice issued by court to appear | Bail bond if the accused has been let out on bail                                                                                                                                                                                                                                                                                                                                | Appellant ordered to appear on | Date of last hearing |
| 04.08.2023                              | 08.08.2023 | 18.08.2023                       | ---                                                                                                                                                                                                                                                                                                                                                                              | 30.08.2023                     | 28.03.2025           |

This criminal appeal coming up on this day for final hearing before this court, in the presence of Thiru. K.Ranjith, learned counsel for the appellant and the respondent as party in person and upon perusing the settlement agreement entered into between the parties before the Mediation Centre and upon perusing the memorandum of appeal and connected records and having stood over for consideration till this day, this court delivered the following;

**JUDGMENT**

This Criminal Appeal under Section 374 of Cr.P.C. has been preferred by the appellant/ accused against the conviction and sentence dated 07.07.2023 passed by the learned Judicial Magistrate Fast Track No.I, Erode in STC.No.161 of 2019, praying to set aside the same.

2) Briefly, the facts available on the material record is that a complaint under Section 138 and 42 Negotiable Instruments Act, 1881 (In short 'N.I. Act') had been filed by the complainant stating that the accused is well known to him and that on 08.01.2019, the accused borrowed a sum of Rs.1,25,000/- for her urgent expenses on the promise to repay on 08.02.2019. After paying one month interest of Rs.1,875/- in advance for the said amount and to discharge the above said liability, the accused issued a post dated cheque bearing No.000003 dated 08.02.2019 drawn on Lakshmi Vilas Bank Ltd., Brough Road, Erode branch for Rs.1,25,000/- in his favour. When he presented the said cheque for collection on 08.02.2019 through Axis Bank, Erode Branch, the same was returned dishonored by the accused bank viz., Axis Bank, Gandhiji Road Branch, Erode on 11.02.2019 due to 'Funds Insufficient'. Hence, he issued a registered legal notice on 22.02.2019, calling upon the accused to pay the returned cheque amount within 15 days from the date of receipt of the legal notice. The accused received the notice on 25.02.2019. But the accused neither replied nor repaid the amount within the stipulated period. Hence, the accused has committed an offence punishable under Section 138 r/w 142 of Negotiable Instruments Act.

3) During trial, on the side of the complainant, Pw1 was examined and Ex-P1 to P5 were marked. On the side of the accused, Dw1 was examined and Ex-R1 to R4 were marked. After hearing the arguments on both sides, the learned Judicial Magistrate had pronounced the judgment on 07.07.2023 finding the accused guilty under Section 138 of N.I. Act and sentenced him as mentioned above. Aggrieved over the said order, the appellant/ accused has preferred this present appeal.

4) The accused is the appellant and the complainant is the respondent in this criminal appeal. In the main appeal, when the appeal stood posted in the stage of process, on 17.02.2025, the respondent appeared and a memo was filed seeking to refer this case before Mediation for having settlement and accordingly, the case was referred. While so, today i.e. on 28.03.2025, the Mediation report along with the settlement agreement executed between the parties was received by this court. On perusal, it is seen that the appellant and the respondent had entered into compromise and settled the matter before Mediation on 06.03.2025. In the said settlement agreement, it is seen that the appellant had given a sum of Rs.42,500/- in cash to the respondent and the same was received by the respondent towards the full and final satisfaction and both the parties have no further claims or demands against each other with respect to the cheque involved in this criminal appeal.

5) Heard the learned counsel appearing on either side. With respect to compounding of offence, Section 147 of the N.I. Act, 1881, reads as follows;

“147. Offences to be compoundable – Notwithstanding anything contained in the Code of Criminal Procedure 1973 (2 of 1974), every offence

punishable under this Act shall be compoundable.”

Further, with regard to the compounding of the offences at later stages of litigation in cheque bouncing cases has been held to be permissible in the decision of K.M.Ibrahim Vs. K.P.Mohammed and another (2010-1-L.Crl.693), wherein the Honorable Supreme Court of India has categorically held that even though the application under Section 147 of Negotiable Instruments Act was made by the parties after the proceedings had been concluded before the appellate forum, Section 147 of Negotiable Instruments Act would not bar the parties from compounding the offences under Section 138 of Negotiable Instruments Act, 1881.

6) In the backdrop of the above dictum, when this instant case is considered, this court is of the view that as observed from the above decision, Section 147 of the Negotiable Instruments Act does not bar the appellant and the respondent from compounding the offences under Section 138 of the above said Act even at the appellate stage of the proceedings. Further, the appellant and the respondent is found to have already settled their dispute through Mediation process and as a result, the appellant is found to have already performed his part of terms of settlement agreement by making payment to the respondent and the same is found to be received by the respondent without any objection. Therefore, having considered that the primary objective of Mediation is to facilitate a ‘win-win’ situation among the parties involved in the dispute and the settlement agreement entered between the parties to this dispute, this court is of the view that it is just and fair to waive the

costs and permit the parties to compound the offence by setting aside the conviction and sentence passed by the trial court. Hence, in view of the settlement arrived between the appellant and the respondent through Mediation, they are permitted to compound the offence in the proceedings of this appeal.

**In the result,**

- 1) This Criminal Appeal is allowed and the judgment and the sentence passed by the learned Judicial Magistrate Fast Track No.I, Erode in S.T.C.No.161 of 2019 dated 07.07.2023 is hereby set aside.
- 2) The appellant/accused is acquitted and the bail bond, if any, executed by the appellant/ accused and on her behalf stands discharged.

Dictated to the stenographer, directly computerized by her, corrected and pronounced by me in the open Court on this, the 28<sup>th</sup> day of March' 2025.

I Additional Sessions Judge,  
Erode.

Copy to:

The Judicial Magistrate Fast Track No.I,  
Erode.

Judgment

in

**C.A.No. 259/2023**

Dated : 28.03.2025

I Additional Sessions Court,  
Erode.