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SURENDRA G

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**IN THE COURT OF THE III-ADDITIONAL DISTRICT AND SESSIONS JUDGE, KODAGU-MADIKERI**

***Present:***

**SRI.SURENDRA G,** *B.A.L. LL.M.*
III-Additional District & Sessions Judge,
Kodagu-Madikeri.

***Dated this the 08th day of July, 2026.***

**Crl. Appeal. No.87/2024**

**Appellant/s** : Rasheed P.M, Risha Trading Company, Proprietor, Packkolil Old No.111/13A, New No.11/60A, Paingottoor, Kerala-686671.

**(By Smt. Daya H.Bangera, Advocate)**

Vs.

**Respondent/s** : Ismail P.D, S/o Ibrahim P.A, R/at Bengooru, Kottur Village, Cherambane Post, Madikeri Taluk, Kodagu District.

**(By Shri. P.U.Preetham, Advocate)**

## JUDGMENT

The present Criminal Appeal is filed by the appellant/accused under Section 415 of the Bharatiya Nagarik Suraksha Sanhita, 2023, calling in question the legality, correctness and propriety of the Judgment of conviction and Order of sentence dated 11.06.2024 passed by the learned Prl. Civil Judge (Jr.Dn.) & JMFC, Madikeri, in C.C. No.1415/2022, consequently seeking to set aside the impugned judgment of conviction and order of sentence passed by the trial court.

2. For the sake of convenience, the parties herein are referred to as per their litigative status/rank before the trial Court.

3. The case of the complainant before the trial court in brief is that during the second week of May 2021, the accused borrowed a hand loan of ₹2,20,000/- for his legal necessities and agreed to repay the same within eleven months. Towards discharge of the said legally enforceable debt, the accused issued a post-dated cheque bearing No.021153 drawn on South Indian Bank, Pothanicad Branch, in favour of the complainant. The complainant presented the said cheque through his banker, Karnataka Bank Ltd., Cherambane Branch, within its period of validity. However, the cheque came to be dishonoured on 02.05.2022 with the endorsement "Funds Insufficient". Thereafter, the complainant caused issuance of a statutory legal notice dated 19.05.2022 demanding payment of the cheque amount. Though the notice was duly served upon the accused on 28.05.2022, he neither complied with the demand nor replied to the notice. Consequently, alleging that all the mandatory requirements under Section 138 of the Negotiable Instruments Act had been complied with, the complainant

filed the present complaint seeking conviction of the accused.

(a) After recording the evidence of PW-1 and marking Ex.P-1 to Ex.P-5 and after considering the statement of the accused recorded under Section 313 Cr.P.C., the learned Trial Court held that the accused had not disputed the issuance of the cheque or his signature appearing thereon. Consequently, the statutory presumptions available under Sections 118 and 139 of the Negotiable Instruments Act arose in favour of the complainant. The Trial Court further observed that the complainant had successfully established the presentation of the cheque within the prescribed period, its dishonour due to insufficiency of funds, issuance of statutory notice within the prescribed time and service of the notice upon the accused. The defence put forth by the accused that the cheque had been issued only as a security and in connection with a benami transaction was held to be a mere suggestion without any supporting evidence, as the accused neither elicited any material admissions in the cross-examination of PW-1 nor entered the witness box or produced any documentary evidence to substantiate his defence. Holding that the accused had failed to rebut the statutory presumptions on the touchstone of preponderance of probabilities, the Trial Court answered the principal point for determination in the affirmative, convicted the accused for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to pay a fine of ₹2,20,500/-, directed payment of ₹2,20,000/- to the complainant as compensation, ₹500/- to the State, and in default, to undergo simple imprisonment for one year.

4. The appellant/accused, being aggrieved by the said Judgment of conviction and order of sentence has preferred the present appeal on following appeal grounds:

**Grounds for Appeal**:

(a) The appellant has urged various grounds in support of the appeal, contending that the Trial Court has committed serious errors in appreciating the evidence and in applying the statutory presumptions under the Negotiable Instruments Act. According to the appellant, the conviction recorded by the Trial Court is contrary to the facts, evidence and settled principles of law and, therefore, the same is liable to be set aside. The appellant contended that the impugned judgment and order of conviction are erroneous, illegal and contrary to the facts, law and probabilities of the case. It is contended that the learned Trial Court has not properly appreciated the evidence of PW-1 in accordance with the provisions of the Negotiable Instruments Act and has arrived at an erroneous conclusion.

(b) It is further contended that the Trial Court failed to appreciate that the cheque in question was not issued towards discharge of any legally enforceable debt or liability due to the complainant and that the complainant himself had admitted circumstances indicating the absence of any legally recoverable liability. According to the appellant, the statutory presumption under Sections 118 and 139 of the Negotiable Instruments Act stood sufficiently rebutted by the defence elicited during the course of cross-examination.

(c) The appellant has also urged that the Trial Court failed to properly consider the specific defence that the cheque in question had been issued only as a security cheque and not towards repayment of any existing debt or liability. It is further contended that the learned Magistrate ought to have accepted the defence version instead of drawing an adverse inference against the appellant. The appellant has further contended that the Trial Court failed to appreciate the evidence indicating that there was no direct financial transaction or relationship between the complainant and the appellant and that the complainant himself admitted that he was not personally acquainted with the appellant. According to the appellant, these circumstances create serious doubt regarding the alleged loan transaction and the existence of any legally enforceable debt.

On the above grounds, the appellant has prayed to set aside the judgment of conviction and order of sentence passed by the learned Prl. Civil Judge (Jr.Dn.) & JMFC, Madikeri, in C.C. No.1415/2022 dated 11.06.2024 and acquit the appellant/accused of the offence punishable under Section 138 of the Negotiable Instruments Act.

5. This Court has secured the Trial Court records. I have carefully bestowed my anxious consideration to the rival submissions advanced by the learned counsel appearing for the appellant and the learned counsel

appearing for the respondent. I have meticulously gone through the entire Trial Court records, the oral and documentary evidence available on record, the impugned judgment, the memorandum of appeal, the written arguments filed by both sides and the judicial precedents relied upon by them.

6. The following points that arise for my consideration are as follows:

1. Whether the appellant/accused has made out sufficient grounds to establish that the judgment of conviction and order of sentence dated 11.06.2024 passed by the learned Prl. Civil Judge & JMFC, Madikeri, in C.C. No.1415/2022, convicting her for the offence punishable under Section 138 of the Negotiable Instruments Act, is illegal, perverse or contrary to the evidence on record, thereby warranting interference by this Court?

2. What order?

7. My findings on the above points are as follows:

| | | |
|---|---|---|
| **Point No.1** | : | In the **Negative**; |
| **Point No.2** | : | As per final order, for the following: |

**-: R E A S O N S :-**

8. **Point No.1:-** This Criminal Appeal is preferred by the appellant/accused under Section 415 of BNSS-2023 challenging the judgment of conviction and order of sentence dated 11.06.2024 passed by the learned Prl. Civil Judge and JMFC, Madikeri in C.C. No. 1415/2022,

whereby the appellant was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced to pay fine of ₹2,20,500/-, out of which Rs.2,20,000/- was ordered as compensation to the complainant and balance of Rs.500/- has been ordered to be paid to the State, with default sentence of simple imprisonment for one year.

9. Before adverting to the detailed discussion on merits, it is just and proper to first consider the arguments advanced by the Appellant as well as Respondent.

10. The learned counsel appearing for the appellant/ accused vehemently argued that the impugned judgment of conviction and order of sentence passed by the learned Trial Court are contrary to the facts, evidence available on record and settled principles governing prosecutions under Section 138 of the Negotiable Instruments Act. It was contended that the learned Trial Judge failed to appreciate the oral and documentary evidence in its proper perspective and mechanically invoked the statutory presumptions under Sections 118 and 139 of the Negotiable Instruments Act without considering the defence probabilised by the appellant through the cross-examination of PW-1.

(a) It was further argued that the cheque in question was never issued towards discharge of any legally enforceable debt or liability, but was handed over only as a security cheque in connection with the business transactions between the parties. According to the learned counsel, the respondent/complainant himself, during the course of cross-examination, made admissions which probabilise the defence of the appellant that the cheque had been issued only as a security and not in discharge of any subsisting legally enforceable debt. Therefore, it was contended that the learned Trial Court committed a serious error in ignoring the material admissions elicited from PW-1 and in holding that the cheque was issued towards discharge of a legally recoverable liability.

(b) Learned counsel further submitted that once the defence had succeeded in raising a probable case through the cross-examination of the complainant, the statutory presumptions under Sections 118 and 139 of the Negotiable Instruments Act stood sufficiently rebutted, whereupon the burden shifted upon the complainant to independently establish the existence of a legally enforceable debt. However, according to the appellant, the complainant failed to discharge such burden by producing cogent and convincing evidence. It was therefore argued that the conviction recorded by the learned Trial Court is unsustainable both on facts and in law.

(c) In support of the aforesaid submissions, the learned counsel for the appellant placed reliance upon the judgment of the **Hon'ble Supreme Court reported in (2024) INSC 260, Prem Raj vs. Poonam Menon and**

**Another, Criminal Appeal No.1858 of 2024, decided on 02.04.2024,** and contended that where the materials on record probabilise the defence that the cheque was issued only as a security and not towards discharge of a legally enforceable debt or liability, and where the complainant's own evidence creates doubt regarding the nature of the transaction, the statutory presumptions stand rebutted and the complainant is required to establish his case by independent evidence. On the strength of the said decision, it was argued that the impugned judgment of conviction deserves to be set aside and the appellant is entitled to an order of acquittal.

11. Per-contra, the learned counsel appearing for the respondent/complainant has argued by filing written arguments and supported the impugned judgment and order of conviction passed by the learned Trial Court and contended that the same is legal, proper and based upon proper appreciation of the oral and documentary evidence available on record. It was argued that the learned Trial Judge has meticulously considered the evidence of PW-1 and the documents marked at Ex.P-1 to Ex.P-5 and has rightly concluded that all the essential ingredients constituting the offence punishable under Section 138 of the Negotiable Instruments Act have been satisfactorily established. According to the learned counsel, the appellant has failed to demonstrate any perversity,

illegality or infirmity warranting interference by this Appellate Court.

(a) It was further submitted that the complainant had successfully proved that the appellant borrowed a hand loan of ₹2,20,000/- during the second week of May 2021 and, towards discharge of the said legally enforceable liability, issued cheque bearing No.021153 dated 28.04.2022 drawn on South Indian Bank, Pothanicad Branch. The said cheque, when presented within its validity period through Karnataka Bank, Cherambane Branch, was dishonoured with the endorsement "Funds Insufficient". Thereafter, the respondent duly issued the statutory legal notice within the prescribed period, which was admittedly served upon the appellant. Despite service of notice, the appellant neither replied to the notice nor discharged the cheque amount. Thus, the complainant had fully complied with all the mandatory requirements contemplated under Section 138 of the Negotiable Instruments Act.

(b) The learned counsel further contended that the appellant neither entered the witness box nor adduced any oral or documentary evidence to rebut the statutory presumptions available in favour of the complainant under Sections 118 and 139 of the Negotiable Instruments Act. It was argued that except making bald suggestions during the cross-examination of PW-1, no material whatsoever has been produced to probabilise the defence. Mere suggestions put to the complainant in cross-examination, without any supporting evidence, do not constitute proof of defence and are wholly insufficient to rebut the statutory presumption.

(c) It was next contended that during the cross-examination of PW-1, the appellant himself suggested that the cheque had been issued as a security cheque. According to the learned counsel, such a suggestion itself amounts to an admission regarding issuance of the cheque by the appellant. Even assuming, without admitting, that the cheque had originally been issued as a security cheque, once it was presented towards discharge of an existing liability and dishonoured for insufficiency of funds, the appellant cannot escape criminal liability under Section 138 of the Negotiable Instruments Act. Therefore, the defence projected by the appellant is self-contradictory and does not probabilise the case set up by him.

(d) The learned counsel further argued that the appellant has failed to explain as to how the cheque admittedly bearing his signature came into the possession of the complainant. If really the cheque had been misused or was not intended to be presented, nothing prevented the appellant from issuing stop payment instructions, lodging a police complaint or initiating appropriate legal proceedings immediately after coming to know of the alleged misuse. The complete absence of any such contemporaneous conduct clearly falsifies the defence now taken for the first time during trial. It was also submitted that the learned Trial Court has rightly appreciated the evidence in the light of the statutory presumptions embodied under Sections 118 and 139 of the Negotiable Instruments Act. Since the appellant admitted the issuance of the cheque and failed to discharge the reverse burden cast upon him, the presumption regarding the existence of a legally enforceable debt continued to operate in favour of the complainant. The appellant having failed to rebut the said presumption even on the touchstone of preponderance of probabilities, the learned Trial Court was fully justified in recording the order of conviction.

(f) The learned counsel further contended that once the execution of the cheque is admitted, the statutory presumptions under Sections 118 and 139 of the Negotiable Instruments Act necessarily arise in favour of the holder and the burden squarely shifts upon the accused to rebut the same by leading cogent evidence. Mere denial or suggestions made during cross-examination, without substantive evidence, are not sufficient to rebut the statutory presumption.

(g) On the strength of the aforesaid oral and written submissions, the learned counsel for the respondent prayed that the appeal being devoid of merit is liable to be dismissed and the judgment of conviction and order of sentence passed by the learned Prl. Civil Judge (Jr.Dn.) &

JMFC, Madikeri, in C.C. No.1415/2022 deserves to be confirmed in the interest of justice.

12. Let us discuss this case in the light of the statutory presumptions available under the Negotiable Instruments Act 1881, the relevant statutory provisions are extracted below:

> **Section 118 of Negotiable Instruments Act 1881, deals with -Presumptions as to negotiable instruments**.—Until the contrary is proved, the following presumptions shall be made:
>
> (a) **of consideration**:- that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration;
>
> (b) **as to date**:— that every negotiable instrument bearing a date was made or drawn on such date;
>
> (c) **as to time of acceptance**:— that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity;
>
> (d) **as to time of transfer**:-that every transfer of a negotiable instrument was made before its maturity;
>
> (e) **as to order of indorsements**:-that the indorsements appearing upon a negotiable instrument were made in the order in which they appear then on;
>
> (f) **as to stamp**:— that a lost promissory note, bill of exchange or cheque was duly stamped;
>
> (g) **that holder is a holder in due course**:-that the holder of a negotiable instrument is a holder in due

> course: provided that, where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burden of proving that the holder is a holder in due course lies upon him.
>
> **Section 139 deals with - Presumption in favour of holder.—**It shall be presumed, unless the contrary is proved, that the holder of a cheque received the cheque of the nature referred to in section 138 for the discharge, in whole or in part, of any debt or other liability.

13. It is now necessary to consider the evidence adduced by the appellant/accused during his chief examination and cross-examination before the Trial Court.

14. During the course of cross-examination, PW-1 admitted that he was not personally acquainted with the accused and that he came to know the accused through his father, as the accused hailed from a neighbouring village and was engaged in kachampuli business with his father. PW-1 deposed that, on account of such acquaintance and business relationship, he advanced a hand loan of ₹2,20,000/- to the accused during the year 2021. He further stated that the accused had handed over the cheque in question to him. However, PW-1 denied the suggestion that the cheque had been issued simultaneously at the time of advancing the loan or that the averments in the complaint and examination-in-chief regarding issuance of the cheque were incorrect. PW-1 also

categorically denied the defence suggestion that the cheque had been issued merely as a security cheque for the loan transaction. He further denied the suggestion that the cheque had been presented in connection with any benami transaction or that the accused was under no legally enforceable liability to pay the cheque amount. Thus, except eliciting that PW-1 was not personally acquainted with the accused and knew him through his father, the defence could not secure any admission supporting its plea that the cheque was only a security cheque or that there existed no legally enforceable debt. On the contrary, PW-1 consistently denied all material suggestions put by the defence and maintained the prosecution case throughout his cross-examination.

15. The principal contention urged by the learned counsel for the appellant is that the cheque in question was not issued towards discharge of any legally enforceable debt but was issued only as a security cheque and that the complainant himself has made admissions during the cross-examination which probabilise the defence of the appellant. It is further contended that the learned Trial Court failed to appreciate the admissions elicited from PW-1 and erroneously invoked the statutory presumptions available under Sections 118 and 139 of the Negotiable Instruments Act. On the contrary, the learned counsel for the respondent has contended that the execution of the cheque and the signature thereon are admitted and,

therefore, the statutory presumptions necessarily arise in favour of the complainant. According to the respondent, the appellant has neither entered the witness box nor adduced any defence evidence and, therefore, has miserably failed to rebut the statutory presumptions.

16. At the outset, it is not in dispute that Ex.P-1 cheque belongs to the account of the appellant and bears his admitted signature. It is also not in dispute that the cheque was presented within its validity period and was dishonoured with the endorsement “Funds Insufficient”. The issuance of statutory notice within the prescribed period and its service upon the appellant are also not disputed. Thus, the foundational facts necessary for attracting the offence punishable under Section 138 of the Negotiable Instruments Act stand duly established by the complainant. The evidence of PW-1 coupled with Ex.P-1 to Ex.P-5 clearly establishes that the complainant advanced a hand loan of ₹2,20,000/- to the appellant and that the cheque in question came to be dishonoured for insufficiency of funds. Once the execution of the cheque and the signature of the drawer are admitted, the statutory presumptions under Sections 118(a) and 139 of the Negotiable Instruments Act automatically operate in favour of the complainant. The burden thereafter shifts upon the accused to rebut the presumptions by placing before the Court a probable defence.

17. The main defence projected by the appellant throughout the proceedings is that the cheque had been issued only as a security cheque. Even if such contention is assumed for the sake of argument, the same by itself does not absolve the drawer of criminal liability under Section 138 of the Negotiable Instruments Act. It is now well settled through a catena of decisions of the Hon'ble Supreme Court that the mere description of a cheque as a "security cheque" is not sufficient to exclude the applicability of Section 138 of the Act. If, on the date of presentation of the cheque, there existed a legally enforceable debt or liability and the cheque issued by the drawer is dishonoured for insufficiency of funds, the provisions of Section 138 are clearly attracted. Therefore, merely because the appellant contends that the cheque was issued as security, it cannot be held that Section 138 is inapplicable.

18. In the present case, except putting suggestions to PW-1 during cross-examination, absolutely no evidence has been placed by the appellant to establish that the cheque was issued merely as a security or that no legally enforceable liability existed on the date of presentation of the cheque. Mere suggestions put in cross-examination, which are categorically denied by the witness, do not constitute legal evidence. The defence remained only at the stage of suggestions and was never substantiated by any acceptable material. A careful reading of the cross-

examination of PW-1 also does not probabilise the defence set up by the appellant. PW-1 has consistently deposed that he advanced the loan to the appellant because of the acquaintance through his father and the business relationship existing between them. Though PW-1 admitted that he was not personally acquainted with the appellant prior to the transaction, he has clearly explained that the appellant was known through his father who was carrying on kachampuli business with the appellant. Such an admission, in the considered opinion of this Court, does not in any manner demolish the complainant's case nor does it probabilise the defence that no transaction had taken place.

19. Similarly, PW-1 has specifically denied every suggestion that the cheque had been issued only as a security cheque. He has also denied the suggestion that the cheque related to any benami transaction or that the appellant had no liability towards him. Therefore, it cannot be said that the appellant has elicited any material admission from PW-1 supporting his defence. On the contrary, the evidence of PW-1 has remained substantially unshaken despite lengthy cross-examination. Significantly, the appellant did not choose to enter the witness box. He also did not examine any independent witness or produce any documentary evidence to establish the circumstances under which the cheque was allegedly issued as a security cheque. No account books, business records,

correspondence or any contemporaneous material has been produced to probabilise the defence. Likewise, no stop-payment instructions were issued to the banker, nor was any complaint lodged alleging misuse of the cheque. Such complete absence of defence evidence assumes considerable significance while appreciating whether the statutory presumptions stand rebutted.

20. It is well settled that though the burden resting upon the accused is not as heavy as that cast upon the prosecution in a criminal trial, the accused must nevertheless place before the Court some acceptable material capable of creating a probable defence. The rebuttal contemplated under Sections 118 and 139 of the Negotiable Instruments Act cannot be achieved by mere denial or by putting suggestions during cross-examination. There must be some evidence, either oral or documentary, which renders the complainant's version reasonably improbable. In the present case, no such material is forthcoming. The reliance placed by the learned counsel for the appellant upon the decision in Prem Raj v. Poonam Menon and Another also does not advance the case of the appellant. The principles laid down therein are well settled, namely that the statutory presumptions are rebuttable. However, in the present case, the appellant has failed to lay the factual foundation necessary to rebut those presumptions. Each case necessarily depends upon its own evidence. In the absence of any acceptable rebuttal

evidence, the appellant cannot derive any benefit merely by citing the said judgment.

21. On the contrary, the authorities relied upon by the respondent reiterate the settled proposition that once execution of the cheque is admitted, the presumption under Sections 118 and 139 of the Negotiable Instruments Act necessarily follows and continues to operate unless rebutted by cogent and convincing evidence. The appellant having failed to discharge that burden, the learned Trial Court was fully justified in acting upon the statutory presumption. The appreciation of evidence undertaken by the learned Trial court is found to be proper, legal and in accordance with the settled principles governing prosecutions under Section 138 of the Negotiable Instruments Act. This Court does not find any perversity, illegality or misreading of evidence warranting interference in the exercise of appellate jurisdiction. The findings recorded by the Trial Court are based upon the evidence available on record and do not suffer from any infirmity.

22. Once the execution of the cheque is admitted, the statutory presumptions embodied under Sections 118(a) and 139 of the Negotiable Instruments Act automatically come into operation. Section 118 raises a presumption that every negotiable instrument was drawn for consideration, while Section 139 mandates a presumption that the holder received the cheque towards

discharge of a legally enforceable debt or liability. These presumptions are rebuttable, but the burden squarely lies upon the accused to rebut them by placing before the Court a probable defence on the touchstone of preponderance of probabilities.

23. The Hon'ble Supreme Court in **A.V. Murthy vs. B.S. Nagabasavanna, AIR 2002 SC 985**, has categorically held that -

> *"Under Section 118 of the Act, there is a presumption that until the contrary is proved, every negotiable instrument was drawn for consideration. Even under Section 139 of the Act, it is specifically stated that it shall be presumed, unless the contrary is proved, that the holder of a cheque received the cheque of the nature referred to in Section 138 for discharge, in whole or in part, of any debt or other liability. It is also pertinent to note that under sub-section (3) of Section 25 of the Indian Contract Act, 1872, a promise, made in writing and signed by the person to be charged therewith, or by his agent generally or specially authorized in that behalf to pay wholly or in part a debt of which the creditor might have enforced payment but for the law for the limitation of suits, is a valid contract."*

a) Likewise, in case of **Vijay v. Laxman, (2013) 3 SCC 86,** at Para 14 & 15 the Hon'ble Apex Court held that :

> ***14.*** *"Once the issuance of the cheque is admitted, the presumption under Sections 118(a) and 139 of the Act would operate. The burden shifts to the accused to rebut the same by adducing evidence that the cheque was not issued for consideration or for discharge of any debt or liability."*

> ***15.*** *"The presumption is rebuttable. The accused can discharge the burden by showing preponderance of*

*probabilities, either by adducing direct evidence or by showing that the complainant's case is improbable."*

24. The Hon'ble Supreme Court in **Sampelly Satyanarayana Rao v. Indian Renewable Energy Development Agency Ltd., (2016) 10 SCC 458** at Para 12 held that -

> "If on the date of the cheque, the liability or debt exists or the amount has become legally recoverable, Section 138 is attracted. The cheque cannot be treated as a mere security, if the liability had already crystallised."

Thus, the defence based solely on the nomenclature of "security cheque" does not absolve the appellant from criminal liability. What is material is the existence of legally enforceable liability on the date of presentation. The appellant has failed to establish that no such liability existed.

25. Applying the above said principles laid down by the Hon'be Apex Court, this Court is of the considered opinion that the appellant has utterly failed to rebut the statutory presumptions available in favour of the complainant even on the standard of preponderance of probabilities. The defence that the cheque was issued as a security cheque remains a bare assertion unsupported by any evidence and, in any event, such a plea, by itself, would not exclude the applicability of Section 138 of the Negotiable Instruments Act where a legally enforceable liability exists on the date of presentation of the cheque.

Consequently, no merit whatsoever is found in any of the grounds urged in the memorandum of appeal.

26. Therefore, this Court is of the considered opinion that the appellant has utterly failed to rebut the statutory presumptions available in favour of the complainant. The complainant has successfully established the existence of a legally enforceable debt, issuance of the cheques, dishonour thereof, issuance and service of statutory notice and failure of the appellant to comply with the demand. Consequently, the conviction recorded by the learned Trial Court is justified and does not call for interference. Hence, the Judgment of Conviction and Order of Sentence dated 11.06.2024 passed by the learned Prl. Civil Judge (Jr.Dn.) & JMFC, Madikeri, in C.C. No.1415/2022 is hereby confirmed. The appeal filed by the appellant is liable to be dismissed. Accordingly, Point No.1 is answered in the **Negative.**

27. **Point No.2:-** In view of the findings given on Points No.1, this court proceeds to pass the following:-

**ORDER**

The Appeal filed by the Appellant/ accused under Section 415 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is hereby **dismissed.**

The Judgment of conviction and sentence passed by the learned Prl. Civil Judge & JMFC, Madikeri dated 11.06.2024 in C.C.No. 1415/2022 is hereby **confirmed.**

Office to transmit the copy of this Judgment along with the TCR to the trial court forthwith.

File be consigned to record room.

*(Dictated through Adalath AI, computerized by Stenographer Grade-I, corrected, signed and then pronounced by me in the open court on this the 08th day of July, 2026).*

**Sd/xxx**
**(SURENDRA G.)**
III-Addl. District & Sessions Judge,
Kodagu-Madikeri.