IN THE COURT OF THE JUDICIAL MAGISTRATE, FAST TRACK COURT (MAGISTERIAL LEVEL), DHARMAPURI.

Present: Selvi. R. DIKSHITHA, L.L.M.,
Judicial Magistrate,Fast Track Court (ML),
Dharmapuri.

Summary Trial Case No: 58/2021
CNR. No. TNDP09 – 000486 -2021
Monday, the 10th day of August 2026

K.Velmurugan,
S/o. Kandhaudaiyar. ..... Complainant

/Versus/

Barathraja,
S/o.Nagaraj. ..... Accused.

PARTICULARS AS PER RULE NO. 106 OF CRIMINAL RULES OF PRACTICE 2019

a.	S.No. of the case	STC.No. 58/2021
b.	The Date of commission of the offence	12.02.2021
c.	The Name of the complainant person, parentage and his residence	K.Velmurugan, S/o. S/o.Kandhaudaiyar, D.No.130, Kandasamy rice mill, old Dharmapuri post, Dharmapuri taluk & District.
d.	The Name of the Accused Person, Parentage and his residence	Barathraja, S/o.Nagaraj, Bharath Agro service, Panchapalli road, Marandahalli town, Palacode taluk, Dharmapuri District.
e.	The Offence Complained of or of proved	U/s. 138 and 142 of Negotiable Instruments Act r/w. u/s. 200 Cr.P.C.
f.	The Plea of Accused if any	Pleaded not guilty

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g.	The Final Order	Accused found guilty
h.	The Date of the Order	10.08.2026
i.	Sentence	In the result, the accused is found guilty under section 255 (2) of Cr.P.C for the offence under section 138 of the Negotiable Instruments Act and is punishable with simple imprisonment for a period of 1 year and liable to pay the cheque amount of Rs.15, 00,000/- (Rupees Fifteen lakhs only) as compensation to the complainant U/s. 357(3) of Cr.PC within a period of 2 months from today 10.08.2026 failing which the accused has to undergo default sentence of simple imprisonment of 6 months. No fine imposed.
j.	Counsel for complainant	Adv. K.Ramachandiran.
k.	Counsel for Accused	Adv. B.Ravi shankar.

This case was taken on filed on 05.03.2021 and case came before me on 24.07.2026 for final hearing in the presence of Adv.Mr. K.Ramachandiran, counsel for the complainant and Adv.Mr.B.Ravi Shankar, counsel for the accused. Upon perusal of the records and having stood over for consideration till this day this court delivers the following

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JUDGMENT

The Complainant has filed this complainant under section 200 of Code of Criminal Procedure read with sections 138 and 142 of the Negotiable Instruments Act 1881 (hereinafter referred to as “N.I Act”) against the accused

1. Brief averments in the complaint:

The complainant stated in his complaint that he is engaged in wholesale business of agricultural fertilizers. The accused is running a retail fertilizer business under the name and style of “Bharat Agro Service” at Marandahalli had become acquainted with the complainant in the course of purchasing fertilizers for his business. On 15.05.2020 the accused approached the complainant for a loan of Rs.15,00,000/- for his urgent business needs, agreeing to pay intrest at the rate of Rs.1/- per Rs.100/- per month. Believing his representation, the complainant gave the said amount to the accused in cash at his residence on the same day. In discharge of the said liability the accused issued a post dated cheque bearing No.000138 dated 31.12.2020 drawn on Lakshmi Vilas Bank, Marandahalli Branch, assuring that the cheque could bre presented on the said date for encashment. The complainant presented the cheque for collection through his Canara Bank Dharmapuri branch on 31.12.2020 the cheque was dishonoured and returned unpaid on 01.01.2021 with the endorsement “Funds Insufficient”. The complainant issued legal notice dated 25.01.2021 demanding payment of the cheque amount. The accused received the notice on 27.01.2021 but neither sent any reply nor repaid the cheque amount. Hence the complainant has been filed.

2. On receipt of the complaint cognizance was taken for offence under section 138 of the Negotiable Instruments Act and summons was issued to the accused. On receipt of the said summon the accused appeared before this court the copies relied upon were duly furnished to the accused on 16.11.2021 and was subsequently questioned about the substance of accusation on 22.11.2021 for which accused pleaded not guilty and stood for trial.

3. <u>Complainant side witnesses and documents:</u>

Complainant filed proof affidavit and examined as PW1. Ex.C1. to Ex.C5. was marked on the side of complainant. To substantiate his case following documents were marked.

a. Ex.C1 is the disputed cheque bearing No.000138dated 31.12.2020 drawn at Lakshmi Vilas bank Marandahalli branch for a sum of Rs.15,00,000/- executed by the accused in favour of the Complainant.

b. Ex.C2 is the Canara bank Dharmapuri Deposit pay in slip dated: 31.12.2020.

c. Ex.C3 is the banker’s return memo dated 01.01.2021 stating the reason for dishonour of cheque as “ Funds Insufficient ”

d. Ex.C4 is the legal notice issed to the accused dated 25.01.2021.

e. Ex.C5 is the Tracking Consignment dated 27.01.2021.

4. The Incriminating evidence on record let in by the complainant was put to the accused U/s 313(1)(b) Crpc on 16.02.2024 to which he denied it as false evidence and stated that he has evidence to lead on the side of defence.

5. <u>Accused side witnesses and Documents:</u>

To substantiate the case accused examined as DW1 and One Senthilkumar examined as DW2. No documents marked through DW1 and DW2.

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6. **<u>Points for determination:</u>**

1. Whether the accused is guilty U/s 138 of NI Act or not?

2. Whether the presumption under section 138 and 139 of NI Act lies in favour of the complainant?

3. Whether the accused has rebutted the presumption raised in favour of the complainant by his probable defence?

Point No: 1

7. Before going into the facts of the case the initial fact whether complainant and accused are known to each other is to be taken into consideration the complainant has stated that the complaint is engaged in wholesale business of agricultural fertilizers. The accused is running a retail fertilizer business under the name and style of "Bharat Agro Service" at Marandahalli had become acquainted with the complainant in the course of purchasing fertilizers for his business. the accused has also not disproved the same. Therefore the acquaintance between the complainant and the accused is believable.

8. The case of the complainant is that the accused issued a cheque bearing No. 000138 dated 31.12.2020 for a sum of Rs.15,00,000 in favour of the complainant and asked him to present it for collection. Trusting the accused the complainant presented the cheque in his account maintained in Canara Bank, Dharmapuri Branch. The cheque was returned unpaid on 01.01.2021with the endorsement "Funds Insufficient". After the cheque was dishonoured, the complainant sent a legal notice through his advocate on 25.01.2021. However, the accused received the notice on 27.01.2021 The accused neither replied to the notice nor repaid the Cheque amount. Cheque dated 31.12.2020 for Rs.15,00,000/- was marked as Ex.C1. Ex.C2 is the Cheque deposit Chellan. The case cheque was presented for collection but was dishonoured for “Funds Insufficient” the return memo was marked as Ex.C3. Ex.C4 is the legal notice to repay the cheque amount but he did not repay the amount. Ex.P5 is Postal Tracking Consignment.

9. Accused examined as DW1 and One Senthilkumar examined as DW2. However the defence of Accused is that the he gave the case cheque to one Dineshkumar who is working as a representative in complainant’s wholesale business.

10. The complainant has fulfilled all the ingredients under section 138 N.I. Act. The issuance of the Ex.C1 cheque and the signature in Ex.C1 cheque is not denied by the accused thus it is presumed that accused has admitted the cheque and the signature in the cheque thus, the presumption under section 118 and 139 N.I Act lies in favour of the complainant.

11. Per contra, while questioning on substance of accusation the accused stated that it was a false case. The defence of Accused which could be inferred while questioning on substance of accusation, while questioning u/s 313(1)(b) and in cross examination of PW1 that the case cheque was given by the accused for security purpose to one Dineshkumar who is working as a representative in complainant’s wholesale business. But the complainant has misused the case cheque.but the accused has not taken any legal action against the complainant regarding misuse of cheque.

12. The court has carefully perused the records and the materials available in the case bundle. For properly appreciating the facts of the case and the legal aspects to be determined a reference is necessary to the revelent statutory provisions. The following are the essential ingredients for constituting the offence under section 138 of Negotiable Instruments Act :

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a. The Person must have drawn a cheque on an account maintained bank for payment of certain amount of money to another person from out of that account.

b. The cheque should have been issued for discharge, in whole or in part, of any debt or other liability;

c. That cheque has been presented to the bank within a period of three months from the date of which it is drawn or within the period of its validity whichever is earlier;

d. That cheque is returned by the bank unpaid, either because of the amount of money standing to the credit of the account is insufficient to dishonour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with the bank;

e. The payee or the holder in due course of the cheque makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque within 30 days of the receipt of information by him from the bank regarding the return of the cheque as unpaid;

f. The drawer of such cheque fails to make payment of the said amount of money to the payee or the holder in due course of the cheque within 15 days of the receipt of the said notice.

13. On perusal of the case records it is evident that the accused has drawn Ex.C1 cheque in favour of the complaiant and the complainant has persented the same with his Canara Bank Dharmapuri branch and the same was retruned has Funds Insufficient on advice on 01.01.2021 further the complaiant has issued a statutory notice on 25.01.2021 (within 30 days from the receipt of information of return of cheque) demanding the cheque amount before filing this complaint and accused has not sent any reply to the legal notice and then complainant filed this complaiant. The complaianant has complied the essential ingredients mentioned in 138 of Negotiable Instruments Act.

14. In the present case when all the above mentioned ingredients are satisfied, the person who had drawn the cheque can be deemed to have committed an offence under section 138 of the Negotiable Instruments Act. complainant has discharged his initial burden by complying the mandatory requirements as required u/s 138 of NI Act and initially the presumptions available in favour of the complianant. Complainant has fulfilled all the ingredients under section 138 N.I. Act. The issuance of the Ex.C1 cheque and the signature in Ex.C1 cheque is not denied by the accused thus it is presumed that accused has admitted the cheque and the signature in the cheque thus, the presumption under section 118 and 139 N.I Act lies in favour of the complainant. Hence, the complainant has proved his case beyond reasonable doubt.

15. Per contra, The defence raised by the accused is the case cheque was given by the accused for security purpose to one Dineshkumar who is working as a representative in complainant's wholesale business. But the complainant has misused the case cheque. On perusal Ex.C1 the signature found on the cheques are those of the accused. The accused has not raised a probable defence which creates reasonable doubt in the case of the complainant Therefore the complainant has complied the essential ingredients mentioned in 138 of Negotiable Instruments Act.

Point No: 2

16. Thus from the above discussion, this court is of the considered view that the ingredients of section 138 of the N.I. Act and initial the presumptions available in favour of the complainant U/s. 118(a) and 139 of the NI Act are fulfilled. The Accused has to rebut the said presumption available in favour of the complainant to show that the cheques in question were not issued either to the complainant or towards discharge of any legally recoverable debt by producing cogent and convincible evidence and when the initial presumption is available in favour of the complainant the duty is cast upon the accused to rebut the presumption available in favour of the complainant. On perusal of the records, it is clear that though the accused denies the case of the complainant as false, he also denied the issuance of Ex.C1 cheque to the complainant but that was not proved and signature in the Ex.C1 cheque is not denied by the accused.

17. One senthilkumar examined as DW2 who has known about the transaction between complainant and accused opportunity was given to cross DW2 still DW2 was not cross examined on the side of the complainant. This court is of the opinion that unless and until the contrary is proved the presumption shall be made of consideration as to date, as to time of acceptance as to time of transfer as to order of endorsement as to stamps and that holder is a holder in due course and such presumption is available to the complainant under section 118 and as per section139 of the Negotiable Instruments Act it is to be presumed that unless contrary is proved that the holder of a cheque received the same in discharge of legally existing liability. Further more as held in State of Madras v. Vaidhyanatha Iyer held as It is obligatory on the court to raise this presumption in every case where the factual basis for raising of the presumption has been established and so presumption envisaged in section 118 of NI Act can legally be inferred that the cheques were made or drawn for consideration on the date which the cheque bears generally in criminal trials the rule of proof is “Beyond reasonable doubt” but in complainant under section 138 of NI Act the rule of proof is “preponderance of probabilities” further it is settled position of law that when the accused has to rebut the presumption under section 139 of the Act the standard of proof for doing so is that of “PREPONDERENCE OF PROBABILITIES”

Section 118 of the N. I. Instrument Act 1881 . --- every nogitable instrument was made or drawn for consideration and that every such instrument, when it has been accepted endorsed negotiated or transferred was accepted, endorsed, negotiated or transferred for consideration as to date – that every negotiable instrument bearing a date was made or drawn on such dated so, it is clear that the case cheque has been issued by the accused to the complainant for proper consideration and this presumption has also not been rebutted by the accused.

Section 139 of N.I.Act 1881 : " Presemption in favour of the 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 " and the accused has also failed to rebut this presumption. So, the court is of view that the accused failed to rebut the presumption of the complaianant's case u/s. 139 of Negotiable Instruments Act to shift the burden to the complainant to prove the existence of legally enforceable debt.

18. Accused has not taken a valid defence as to issuance of cheque and his signature in the cheque. In Re. Rangappa vs sri Mohan, the Hon'ble Supreme court of India held that. " when the signature is admitted by the accused then the presumption can be drawn in favour of the complainant including the existence of legally enforceable debt and such presumption will be or rebuttable nature". In this case, the accused has not denied his signature present in the case cheque.

19. Since accused has not examined any independent witness other than DW2 Senthilkumar no valid documents was produced documents to prove his case. The defence of the accused is that the case cheque was given by the accused to one Dineshkumar and the complainant misued the case cheque but the accused has not taken any legal action against the complainant regarding misuse of the cheque and the accused also failed to prove that the transaction happened between the accused and dineshkumar instead of the complainant. From the above fact it is clear that accused has not raised a valid defence as to the issuance of the cheque.

20. The Hon’ble Apex court in the case of **“M/s.Kalaimani Tex and Another vs. P.Balasubramanian”** It has been held that, “The statute Mandates that once the signature of an accused on the cheque/negotiable instrument are established, then ‘reverse onus’ clauses become operative”. In this case, as stated above, since the complainant had clearly proved that the signature in the cheque is that of the accused and has discharged the initial burden of proof to raise the presumption under section 139 read with section 118 in his favour, it is the duty of the accused to rebut the presumption raised against him by means of probable defence. Thus, from the above discussion, this court is of considered view that the presumption under section 118 and 139 of N.I.Act lies in favour of the complainant. Thus, from the above discussion, this court is of considered view that the presumption under section 118 and 139 of N.I.Act lies in favour of the complainant.

Point No: 3

21. In this connection, the larger bench of the Hon'ble Supreme Court in"Rangappa Vs. Sri Mohan" held as follows: Keeping this in view, it is a settled position that when an accused has to rebut the presumption under Section 139, Therefore, if the accused not able to raise a probable defence which creates doubt about the existence of a legally enforceable debt or liability as clarified in the citations, the accused can rely on the materials submitted by the complainant in order to raise such a defence and it is convincible that in some cases the accused may not need to adduce evidence of his/her own. Therefore, it is clear that complainant has to prove his case beyond reasonable doubt and accused was expected to prove only the preponderance of probabilities.

22. In order to rebut the presumption, the accused has to prove his case by letting in oral and documentary evidences. By raising a probable defence which creates doubts about the existence of a legally enforceable debt or liability, and the accused has to disprove the case of the complainant. The accused has not taken any legal action against the cheque misuse this creates doubt on the accused. The accused has not taken any steps to get back the cheque from the complainant. The Accused has not raised a valid defence as to the issuance of cheque and his signature in the case cheque. Further accused has not produced valid evidence or documents to show that she repaid the cheque amount and this point is deceided in favour of complainant.

23. On Perusal of Ex.C1 Cheque and signature in the cheque it is crystal clear that the Ex.C1 cheque belongs to the accused. The same was presented for collection by the complainant and was returned for the reason stating "Funds Insufficient". Section 146 of Negotiable instruments act states as "The Court shall, in respect of every proceeding under this Chapter, on production of bank's slip or memo having thereon the official mark denoting that the cheque has been dishonoured, presume the fact of dishonour of such cheque, unless and until such fact is disproved". Hence, there arises a strong presumption against the accused which has to be rebutted only by adducing a very strong probable defence.

24. In this case, on the questioning of accused under section 313(1)(b) Cr.P.C, the issuance of Ex.C1 cheque to the complainant and the signature of the accused in Ex.C1 cheque is categorically not denied by the accused himself. the accused has not raised any probable defence against the complainant.

25. When a statutory presumption is raised against the accused, in order to rebut the same, it is the duty of the accused to lead the evidence and disprove the presumption against him. No document like cheque book slip etc., were produced to show that accused has paid the entire amount to the complainant the accused has not produced any documents in his favour. Without proving the case of the accused through proper documentary evidences and through raising a probable defence, mere raising defence in cross examination of PW1 and during the questioning of accused under section 313(1)(b) Cr.P.C alone is not enough to disprove the case of the complainant.

26. The accused alleged in substance of accusation that the complainant has filed this false case against the accused. But no relevent documents were produced to show the same which creates doubt in the case of the accused. The Hon'ble Supreme Court of India in P.Rasiya V. Abdul Nazer And Another held as “As per Section 139 of the N.I. Act, 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. Therefore, once the initial burden is discharged by the Complainant that the cheque was issued by the accused and the signature and the issuance of the cheque is not disputed by the accused, in that case, the onus will shift upon the accused to prove the contrary that the cheque was not for any debt or other liability. The presumption under Section 139 of the N.I. Act is a statutory presumption and thereafter, once it is presumed that the cheque is issued in whole or in part of any debt or other liability which is in favour of the Complainant/holder of the cheque, in that case, it is for the accused to prove the contrary.” In this case, the accused has neither disputed nor denied the financial capacity of the complainant nor produced any documents to disprove or dispute the financial capacity of the complainant during trial.

27. The defence of the accused is that the complainant misused the case cheque. The accused has not denied his signature in the case cheque Thus, this court is of considered view that the accused should bear his liability for executing Ex.C1 in favour of the complainant.

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28. Hence, when a strong statutory presumption is raised in favour of the complainant by proving that the Ex.C1 cheque is returned for reason of “Funds Insufficient”, it is the prime duty of the accused to rebut such presumption by way of examining witness and by adducing evidences. If the accused has not taken a valid defence or produced any documents proving that the debt was not legally enforceble or the entire amount has been repaid by the accused to the complainant that would have gone a long way in establishing his case. Without proving the case of the accused through proper documentary evidences and through raising a probable defence, mere denying the case of the complainant is not enough to rebut the presumption raised in favour of the complainant. Hence, this court is of considered view that the Ex.C1 cheque has been given by the accused in favour of the complainant for a legally enforceable debt or other liability of Rs.15,00,000/- towards the complainant and the accused has miserably failed to rebut the presumption raised in favour of the complainant by his probable defence.

29. In view of the aforesaid discussion, this court hereby holds that the complainant has proved and substantiated the allegation made against the accused beyond all the reasonable doubt and the accused miserably failed to disprove or rebut the presumption drawn in favour of the Complainant. Hence, for the reasons stated above this court finds the accused is guilty of offence under section 138 of N.I. Act.

30. Hence this court is satisfied that the accused had received the cheque amount from the complainant and issued the case cheque for the amount due by him to the complainant and the complainant has proved his case and the accused is found guilty.

31. Result:

In the result, the accused is found guilty under section 255(2) of Cr.P.C for the offence under section 138 of the Negotiable Instruments Act and is punishable with simple imprisonment for a period of 1 year and liable to pay the cheque amount of

Rs.15,00,000/- (Rupees Fifteen lakhs Sixty five thousand only) as compensation to the complainant U/s. 357(3) of Cr.PC within a period of 2 months from today 10.08.2026 failing which the accused has to undergo default sentence of simple imprisonment of 6 months. No fine imposed.

Directly typed by me in my laptop and after making necessary corrections, pronounced by me in open court, on the 10th day of August 2026.

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Judicial Magistrate,Fast Track Court (ML), Dharmapuri.

<u>Complainant side Witnesses:</u>

PW1 - K.Velmurugan, (Complainant).

<u>Complainant side Exhibits:</u>

Ex.C1 - Disputed cheque bearing No.000138 dated 31.12.2020

Ex.C2 - Canara bank Dharmapuri Deposit pay in slip dated: 31.12.2020.

Ex.C3- Banker's return memo dated. 01.01.2021

Ex.C4 - Legal notice issed to the accused dated. 25.01.2021.

Ex.C5 - Tracking Consignment dated 27.01.2021.

<u>Accused side Witnesses:</u>

Ex.D1 - Barathraja, (Accused).

Ex.D2 - Senthil kumar.

<u>Accused side Exhibits:</u>

- Nil -

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Judicial Magistrate,Fast Track Court (ML), Dharmapuri.

CASE SUMMARY AS PER THE CIRCULAR OF HON'BLE HIGH COURT MADRAS IN R.O.C NO. 814/2020/RG/F1, DT. 07.04.2021

S.No.	Action	Date
1.	The period of remand of the accused	Not Applicable
2.	The date of filing of complaint/final report in the court	05.03.2021
3.	The date of committal of the case to the court of Session	Not Applicable
4.	The date of Questioning of the accused under sec.138 of Negotiable Instruments Act of the code of Criminal Procedure 1973 as the case may be.	22.11.2021
5.	Filing of miscellaneous petitions and their results including the results on challenge before superior courts expect routine petitions like petitions under sec.317 of the code.	(i) Petition u/s. 348 BNSS, filed by the Complainant and the petition is dismissed. (ii) Petition u/s. 348 BNSS, filed by the accused and the petition is dismissed.
6.	Date of examination in chief and cross examination of a witness	09.04.2021, 22.11.2023, 23.11.2022, 31.05.2022, 04.10.2024, 04.11.2025.
7.	Date of examination of the accused under sec. 313 of the code.	16.02.2024.
8.	Details of abscondence of an accused and this appearance / production as	Not Applicable

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	the case maybe.	
9.	Grant of stay by superior courts and the results thereof.	Not Applicable

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Judicial Magistrate,Fast Track Court (ML),
Dharmapuri.

Note:

1) At the time of trial the accused was on bail.
2) The result of the case is intimated to the complainant.
3) No witnesses were detained for more than 3 hearings.
4) Copy of this judgment given to the accused free of cost.

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Judicial Magistrate,Fast Track Court (ML),
Dharmapuri.