

**IN THE COURT OF METROPOLITAN MAGISTRATE, FAST TRACK
COURT AT MAGISTERIAL LEVEL - IV, GEORGE TOWN, CHENNAI –01**

**PRESENT: Tmt.A.K.N.CHANDRA PRABA, B.Sc., M.L.,
METROPOLITAN MAGISTRATE, FAST TRACK COURT NO - IV**

Monday, this the 07th Day of April, 2025

S.T.C. No.2752 of 2022

CNR.No.TNCH0B-014327-2022

JUDGMENT UNDER SECTION 355 of Cr.P.C

A	Serial Number of the Case	STC.No.2752 of 2022
B	Date of Offence	14.03.2021
C	Name of the Complainant & Address	Mrs.B.Selvi, W/o.Baskar, No.12/2, Rettaikuzhy Street, Tondiarpet, Chennai-600081.
D	Name of the Accused and addresses	Mrs.P.Selvi, W/o.Pandian, Now Residing at No.16/38, Padi Pudhu Nagar, 9 th Street, Anna Nagar, West Extn. Chennai-101.
E	Offence Complained of	Dishonor of Cheque –U/s.138 and 142 of the Negotiable Instruments Act.
F	Plea of the Accused and his Examination in Brief	Not guilty.
G	Final Order	In the result, The accused is not found guilty for the offence u/s.138 of N. I.Act and the accused is acquitted for the offence u/s 138 of N.I. Act as per u/s 255 (1) of Cr.P.C.
H	Judgment Reserved on	05.03.2025
I	Judgment Pronounced on	07.04.2025

PART-B – A brief statement of reasons for the decision

(As mandated u/s.355(1) of the code of criminal procedure,1973)

This case come up for final hearing before this court on 05.03.2025, M/s.C.Vimal Kumar, is the learned Counsels for the complainant and Mr.J.Sakthivel, is the learned Counsel for the accused, upon hearing both sides and on considering all

the materials on record, having stood over for consideration till this day and today this court delivers the following:

JUDGMENT

The complainant has filed this complaint U/s.138 and 142 of the Negotiable Instruments Act 1881 (referred herein as N.I.Act) as amended by Act 55 of 2002 and U/s.200 of Cr.P.C to the accused and for compensation to the complainant.

1) Gist of Complaint filed by complainant:-

The complainant has stated in his complaint as on 09.11.2019, the accused has borrowed a sum of Rs. 5,00,000/- from the complainant since they are residing in the same area and promised to repay the same within six months at 2% per month interest rate to complainant. The complainant has lend the same by pledging gold ornaments and savings to accused and accused also executed promissory note infavour of complainant on the same day. But the accused has not acted as per his words. On repeated demand made by complainant, the accused has issued a cheque no.000120 dated 27.01.2021 for a sum of Rs.5,00,000/- drawn on Karur Vysya Bank, Old Washermanpet Branch to the complainant. Then the complainant has presented the said cheque in his banker Indian Overseas Bank, Old Washermanpet Branch and the same was returned as “Drawers Signature Differs” and on 28.01.2021, return memo for the said cheque was given to complainant by his said banker. On 24.02.2021, the complainant has issued notice to the accused to call upon the accused to repay the said cheque amount to the complainant within 15 days as per u/s 138 of N.I. Act. On 01.03.2021, the said notice was served and acknowledgment card by the accused and reply notice dated 06.03.2021. The accused has not repaid the said cheque amount to the complainant. So, the complainant has filed this complaint against the accused before this court.

2) Cognizance :-

The complainant has filed this complaint along with proof affidavit before this Court and the same was verified with original documents submitted by the complainant. On perusal of entire records, there is prima facie case made out against the accused u/s 138 of NI Act. This Court has taken cognizance of the said offence against the accused and issued summon to the accused. The proof affidavit of complainant is replica of the fact mentioned in complaint in this case.

3) Copies and Substance of accusation:

On appearance of accused, this Court has furnished the copies to the accused and explained about the substance of accusation for an offence u/s 138 of NI Act to the accused u/s 251 of Cr.P.C and the accused has pleaded not guilty and tried the case. Based on the above proceedings, this Court has directed to produce the complainant side witnesses.

4) Substance of complainant side evidence:-

The complainant side has examined PW1 by proof affidavit was taken as in lieu of complainant side evidence and Ex.P1 to Ex.P6 were marked as per u/s 145(1) of NI Act by this Court. The PW1 has deposed as the replica of the complaint which was filled by the complainant in this case. So, the complainant was examined as PW1 and Ex.P1 to Ex.P6 were marked in his evidence. After that no witness produced by complainant and complainant side evidence was closed by this court.

5) Recall complainant witnesses by accused :-

The accused has recalled the complainant's witnesses for cross before this Court. The accused has crossed examined PW1 to prove their case. After that, the complainant has not taken any steps to produce witness to prove his case and the

complainant side evidence closed.

6) The incriminating evidence explained to accused:-

On appearance of accused, this Court has explained about the incriminating evidence u/s 313 of Cr.P.C to the accused and denied as false evidence and this court has ordered to produce the witness on the defense side. After that there is no witness produced by the defense side. So, this court has closed the defence side evidence.

7) In order to prove the case, the complainant side examined PW1 and Ex.P1 to Ex.P6 and no oral or documentary evidence was produced by the defence side in this case.

8) Heard both sides. The complainant and accused counsels have submitted their oral arguments and complainant side has filed written argument.

9) Points for determination:-

- 1) Whether the complainant has established the presumption infavour of complainant as per u/s 118 and 139 of NI Act beyond all reasonable doubts ?
- 2) If the complainant has established his case then the accused has rebutted the said presumption infavour of the complainant as preponderance of probabilities or not?
- 3) If the accused has failed to rebut or rebutted the established case of complainant then what are the reliefs the parties are entitled and if the accused is not rebutted then what are the quantum of punishment can be imposed to the accused ?

10) Decision:-

Point No:1 to 3:-

The complainant has proved the case through Ex.P1 to Ex.P6 as the accused has admitted the signature in the case cheque and the presumption u/s 118 of N.I. Act and 139 of N. I. Act are attracted infavour of the complainant. This court has looked into the dictum of our Honb'le Supreme Court in

"In the case of Sunil Todi, Justice D.Y. Chandrachud observed that a security cheque issued for advancement of a loan would be mature for presentation upon the default of repayment of loan. Upon dishonour of such a security cheque, the same would lie under the ambit of Section 138."

11) The accused has not denied the signature in case cheque. So, the money transaction between the complainant and accused details and financial capacity of complainant are also not necessary because the presumption u/s 118 and 139 of N.I Act are rebuttal in nature as per the dictum of our Hon'ble higher forum. So, this court has decided the point no.1 is infavour of the complainant.

12) The accused has to rebut the presumption infavour of the complainant. In this regard the complaint has proved the ingredients for an offence S.138 of N.I Act by filing proper documents and adducing oral evidence. However, in this case on hand, during the stage of Judgment on 07.04.2025, the complainant has filed affidavit stating that the accused has settled the amount and the accused may be acquitted in this case and recorded the same.

13) The learned counsel for the complainant has represented that the matter has been settled amicably between the complainant and the accused has settled the amount as agreed by the complainant full and final settlement and hence the accused is to be acquitted.

14) Hence, this court decided that for the above said reasons, the offence u/s.138 of N.I.Act is a compoundable in nature and at any stage of the case can be compounded between the parties and based on the compromise arrived between the parties and reported by the complainant side is accepted and the offence u/s.138 of N.I.Act against the accused is not made out as the ingredients for the said offence is not complied in this case and the accused is acquitted u/s.255 (1) of Cr.P.C.

The accused is not found guilty for the offence u/s.138 of N. I.Act and the accused is acquitted for the offence u/s 138 of N.I. Act as per u/s 255 (1) of Cr.P.C.

Typed by the steno-typist in the computer directly to my dictation, after making corrections, pronounced by me in the open court on this the 07th day of April 2025.

**Metropolitan Magistrate,
Fast Track Court at Magisterial Level – No.IV,
George Town, Chennai-1.**

Annexure

Complainant side witness

PW-1 : Mrs.B.Selvi (Complainant)

Complainant side Documents

Exhibits		
Ex.P1	09.11.2019	Promissory Note
Ex.P2	27.01.2021	Cheque
Ex.P3	28.01.2021	Return Memo
Ex.P4	24.02.2021	Legal Notice
Ex.P5	01.03.2021	Acknowledgment Card
Ex.P6	06.03.2021	Reply Notice

Defence Side Witness: Nil

Defence Side Documents: Nil

**Metropolitan Magistrate,
Fast Track Court at Magisterial, Level – No.IV,
George Town, Chennai-1.**