

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS-I,
PALA**

Present:- Smt: Shermin S.S.,

Judicial Magistrate of the First Class-I, Pala

Monday, 16th day of March, 2026 / 25th day of Phalguna, 1947

S.T. 508/2015

- Complainant : Central Finance Credit and Investment Co-operative India Ltd, Pala.
Rep. By its Managing Director cum Chief Executive, A.M Geroge, S/o Mathew, Elamthuruthiyil House, Edappady P.O, Bharananganam Village.
(By Adv. Abraham Thomas)
- Accused : Binu Manoj, 50 yrs, W/o K.N Manoj, Melathinal House, Edandu P.O, Vallichira.
(By Adv: S.Hari)
- Offence : Punishable u/s 138 of N.I. Act.
- Plea : Not guilty
- Finding : Not Guilty
- Sentence or order : Accused is found not guilty of the offence u/s.138 of the Negotiable Instruments Act. Hence accused is acquitted under Section 255(1) of Cr. P.C.

Description of Accused

Name	Age	Father's/ name	husband's	Calling	Residence	Taluk
Binu Manoj	50	K.N Manoj		-	Melathinal	Meenachil

Dates of

Occurrence	Complaint	Apprehension	Release on bail	Commenceme nt of trial	Close of trial	Sentence or order
15.1.2015	16.2.15	3.10.15	3.10.15	3.10.15	11.3.26	16.3.26

This case having been finally heard on this day, the Court delivered the following:-

J U D G M E N T

1. This is a complaint filed u/s.190 of Cr.P.C, alleging that the accused had committed the offence punishable under section 138 of N.I. Act.
2. **The case of the complainant in brief is as follows:-**The complainant is a Co-operative Society registered under the provisions of the Multi State Co-operative Societies Act 2002, representing its Managing Director or cum Chief Executive A.M George. The above said society conducting Group Deposit Credit Schemes(GDCS) for the benefit of its members. K.N Manoj, husband of the accused joint GDCS No.5/12 and availed a loan for sum of Rs.4,00,000/- on 19/06/2003 and 1st surety is Binu Manoj(accused). Nussy Sunny is the 2nd surety. K.N Manoj defaulted the payment of the above said amount. Accused as a surety, handed over a blank, but signed cheque bearing No.10978800001900010 drawn on Indian Bank, Pala branch. At the time of issuing cheque, accused authorized complainant society to fill up the necessary details while producing the same before the bank, in case any default in remitting the amount. Accused and the above said Manoj failed to pay the balance amount, the complainant society, fill up the date and balance amount in cheque dated 25/10/14 for Rs.2,36,375/- drawn on Indian Bank, Pala branch, in favour of of the complainant. The accused made the complainant believe that he can obtain money by presenting it before the

bank. After that, complainant had presented Ext.P1 before Indian Bank, Pala branch for collection which was dishonoured citing the reason “funds insufficient” in the account of the accused. After that, the complainant had sent a lawyers notice to the accused, which was accepted by him, on 31/12/2014 However, the accused did not turn up. Hence the complaint.

3. On appearance of the accused, copies of prosecution records were furnished and particulars of offence punishable u/s.138 of the Negotiable Instruments Act have been read over to accused to which he pleaded not guilty and claimed to be tried. After that the case was posted for the evidence of the complainant. PW1 and PW2 were examined, Exts.P1 to P10 were marked.
4. After the closure of the evidence of the complainant, accused was examined u/s.313 (1)(b) Cr.P.C. He denied the incriminating circumstances levelled against him. Even though sufficient opportunities had given, no evidence adduced from the side of defence.
5. I heard both sides.

6. The following points arise for determination:-

- (i) Was Ext. P1 executed by the accused ?
- (ii) Was it executed in discharge of any debt or legally enforceable liability ?
- (iii) Was it dishonoured due to insufficiency of funds ?
- (iv) Whether the statutory requirements u/s.138 &142 of the N.I. Act have been complied with?

- (v) In the event of conviction, what is the sentence to be awarded upon the convicted accused ?

7. **Points Nos. 1 and 2:-** For the brevity of discussion, point nos.1 & 2 are considering together. PW2 is the managing director and chief executive of Central Financial Credit and Investment Co-operative India Ltd, situated at the Pala and the power of attorney holder of society. Case of the complainant is that one Mr. Manoj has joined JDCS. No. 5/12. Manoj has availed a loan for a sum of ₹ 4,00,000 on 19.06.2013 and first surety is accused Binu Manoj. Neither K. M. Manoj nor the surety has paid any amount to the petitioner as stipulated in the bond. The accused, K. N. Manoj, and Nussy Sunny are jointly and severally liable to discharge the liability. The amount outstanding including interest and other charges as on 25.10.2014 is ₹ 2,36,375. As a security the accused handed over a blank but signed cheque to the complainant, which is marked as EXT P1.

8. As K N Manoj, accused and the second surety failed to pay the balance amount, due to the complainant society. The complainant society presented the Ext.P1 before the bank, it was returned due to the reason insufficiency of fund in the account of the accused. The testimony of PW1 shows that, complainant society was doing GDCS chitts. One Mr. Manoj was availed as loan for ₹4,00,000. At that time Nussy Sunny was the second surety. The first and the second surety along with Mr. K. N. Manoj are jointly and severally liable to discharge the liability. They failed to pay the balance amount due to the company i.e. ₹ 2,36,375. Accused as a surety

handed over that cheque to the complainant and it was presented for collection. It was returned with reason funds insufficient.

9. PW1 stated that complaint was filed by earlier manager. No document is produced with regard to his appointment. But he stated that it can be produced. His version is that GDS is registered on 10.05.2012 and the person entered in GDCS committed default. He remitted only one installment. In that, defaulted GDCS, the present accused joined by depositing balance amount. Only after verifying the records he can say the name of the person who joined earlier in Chitty. This earlier transaction is neither mentioned in the complaint nor in the notice. He stated that there is a difference of signature in Exhibit P6 and Exhibit P5 and according to him only the first letter is correct but there is difference in balance letters. There is also difference of signature seen in Exhibit P1 and Exhibit P5 except first letter. Signature seen in Exhibit P1 and Exhibit P6 are the same. The only difference is signature seen in acknowledgment card. Exhibit P6 is not properly stamped and according to him, he didn't know the legal aspect of this. He stated that the cause of action happened on 2013, but it is mistakenly written as 2003. On 2003, the complainant company was not formed. The accused contented that the number of exhibit P1 is not mentioned in Exhibit P6. PW1 stated that he is not the witness of Exhibit P6 and Exhibit P1.

10. Evidence of PW2 is that he filed the complaint. He was authorized to file the said complaint as per Exhibit P10 resolution. He stated that Exhibit P1 was put by the accused in his presence. He stated that Exhibit P1 is written by accused. He

again stated that accused gave right to fill up the check. Exhibit P1 was fill up by his staff as per his direction. Accused and the sureties put their signature on Exhibit P6. signature shown on Exhibit P7 is that of Manoj, who is the husband of the accused, who availed loan. At the time of signing EXT P6, Exhibit P1 also given to them. In the cross-examination, defence counsel put a question that year mentioned in Exhibit P6, is erased and written as 2013. He replied that in 2003, the company was not formed. It was mistakenly written in the complaint as 2003. Moreover, the notice was issued to be accused before Exhibit P10. He stated that accused executed Exhibit P1 at the complainant's office and at that time nobody was present there. He stated that he is not sure that on which date Exhibit P1 was executed.

11. On going through the evidence adduced in this case, it can be seen that According to the complaint, the loan was availed by Mr. Manoj on 19/6/2013. According to the complainant, the accused, K. M. Manoj, and Nassi Sunny are jointly and severally liable to discharge the liability. Mr. K. N. Manoj availed a sum of ₹ 4,00,000. The amount outstanding with the interest and other charges on 25.10.2014 to be paid is ₹ 2,36,375. Neither PW1 nor PW2 stated on which date Exhibit P1 was executed. GDCS was registered on 10.05.2012 in the name of another person. He paid only one installment. The present accused entered in that GDCS. That earlier transaction is neither mentioned in Exhibit P3 legal notice nor in the complaint. No such earlier transactions details are mentioned in Exhibit P3 Legal notice. He himself deposed that there is difference in Exhibit P6 and Exhibit P5 signatures, except the first letter in the signature. Moreover, Ext.P10 is a true

copy of the Board Resolution produced by PW2. On perusing Ext.P2, signature of Chairman and Managing Director is only seen. It is the true copy of Board Resolution. From Ext.P10, it can not be understood who entrusted PW2 for representing for and on behalf of the complainant company. In heading in Ext.P10 is seen as true copy. Due to this reason itself, it can not be considered as a true copy. The number is mentioned in Exhibit P6. But whether no indication that the cheque bearing No.10978800001900010 that of surety. Moreover, there is an overwriting is seen regarding year in Ext.P6. This create a doubt regarding the complainant's case. It is the duty of the complainant to prove the fact that he received the cheque in the alleged transaction. Complainant failed to prove this fact. Thus this benefit of doubt goes in favour of the accused.

12. Considering the above said discussions, it is found that the complainant could not prove the transaction with the accused and execution of Ext.P1 as averred in the compliant. Thus the point Nos.1 & 2 are found against the complainant

13. **Point Nos. 3 & 4:-**

From Ext. P2, it can be seen that Ext.P1 was dishonoured citing the reason "funds insufficient" in the account of the accused. Exts.P3 to P5 prove that a lawyer's notice has been sent to the accused and she accepted it. No serious disputes raised regarding that aspects. Hence it can be seen that all the legal formalities were complied by the the complainant. The aforesaid points are found in favour of the

complainant.

14. **Point No.5 :-** In the result of the above said findings in point Nos.1 and 2, accused is found not guilty of the offence u/s.138 of the Negotiable Instruments Act and she is acquitted under Section 255(1) of Cr. P.C. His bail bond stands cancelled and he is set at liberty.

Dictated to the Confidential Assistant transcribed and typed by her, corrected by me and pronounced in the open Court on this day, the 16th day of March, 2026.

**JUDICIAL MAGISTRATE OF THE FIRST CLASS-I
PALA**

APPENDIX

Witnesses examined for the complainant:-

PW1 : Joseph K.J

PW2 : George

Exhibits marked for the complainant:-

- P1 Cheque dated 25/10/2014 proved by PW1
- P2 Bank's return Memo dated 04/12/2014 proved by PW1
- P3 Copy of Lawyer's notice dated 26/12/2014 proved by PW1
- P4 Postal Receipt dated 26/12/2014 proved by PW1
- P5 Acknowledgment card dated 31/12/2014 proved by PW1
- P6 GDCS Security bond dated 19/6/2013 proved by PW1
- P7 Original receipt proved by PW1
- P8 Original Power of Attorney dated 8/11/2018 proved by PW1
- P9 Account statement(GDCS Subscription) proved by PW1
- P10 True copy of Board resolution dated 4/4/2019 proved by PW1

Witnesses examined for the accused:- Nil

Exhibits marked for the accused:-Nil

**JUDICIAL MAGISTRATE OF THE FIRST CLASS-I,
PALA**

//True copy//

**JUDICIAL MAGISTRATE OF THE FIRST CLASS-1,
PALA**