IN THE COURT OF JUDICIAL MAGISTRATE -I, CHENGALPATTU

Present : **Tmt.V.Lavanya, M.L.,**

Judicial Magistrate - I, Chengalpattu.

Dated, the 29th day of July 2026

STC No.664/2024

JUDGMENT

S.Palani,
S/o.Seeyalam,
No.6A, Syed Yahoob Street,
Natham, Chengalpattu. . . .Complainant.

/Vs/

R.Vasanthakumar,
S/o.Rajenthiran,
Matha Koil Street,
Mambakkam Village,
Orakattupettai - via,
Thiruvaanai Koil Post,
Uthiramerur Taluk,
Kancheepuram District. . . .Accused.

This case is taken on file on 30.10.2024 came up for final hearing on 04.07.2026 before me in the presence of M/s.K.Arunadeepan, Advocate for the complainant and M/s.P.Madhanraj, Advocate for the accused and on hearing both side arguments and upon perusing the document and having stood over till this day for the consideration of this court delivers the following :-

JUDGMENT

1) This is a case instituted by the complainant for the offence under Section 138 of the Negotiable Instruments Act, 1881 as against the accused for dishonor of cheque.

2) On perusal of complaint and proof affidavit, since Prima facie materials were there to presume that the accused had committed the offence Under Section 138 of Negotiable Instruments Act, this court had taken Cognizance of the offence Under Section 138 of Negotiable Instruments Act against the accused. On appearance of accused, substance of accusation under Section 138 of Negotiable Instruments Act were read, explained and questioned to the accused. The accused pleaded not guilty and claims to be tried.

3) Brief of complainant's case:

i) The accused is the well known person to the complainant. On such acquittance, the accused approached the complainant and borrowed a sum of Rs.1,00,000/- during the first week of November 2023 as loan in order to meet out his urgent business commitments. The accused assured to repay the loan amount within a period of one month. But the accused failed to repay the said amount within stipulated time. On repeated demands of the complainant the accused finally came forward to settle the amount and issued a cheque bearing No.000007 dated 09.02.2024 (marked as Ex.P1) for Rs.1,00,000/- drawn on Bank of Baroda, Chengalpattu branch in favour of the complainant. The accused assured that the cheque will be honored on presentation.

ii) On assurance given by the accused, when the complainant presented the cheque bearing No.000007 dated 09.02.2024 for Rs.1,00,000/- drawn on Bank of Baroda, Chengalpattu branch with the complainant banker namely State Bank of

India, Chengalpattu Branch on 12.02.2024, the cheque Ex.P1 was returned for the reason “Funds Insufficient”, vide return memo dated 12.02.2024 (Marked as Ex.P2).

iii) Hence, the complainant sent a legal notice to the accused on 20.02.2024 (Marked as Ex.P3) by registered post calling upon the accused to pay the cheque amount due under the dishonored cheque mentioned above within 15 days from the date of receipt of the statutory notice. The accused received the notice on 27.02.2024 and the acknowledgment card is marked as Ex.P5. The accused has not paid the amount within 15 days from the date of service of notice. But the accused sent a reply notice dated 19.03.2024 (marked as Ex.P4) stating wrong and incorrect averments. Thus accused committed the offence punishable under Section 138 of Negotiable Instruments Act. Hence, this complaint.

4) The complainant examined himself as PW1 to prove his case and marked Ex.P1 to P5.

5) The incriminating evidence against accused was explained to accused and his statement was recorded under Section 313 of Cr.P.C. During the said questioning the accused stated that he had given a blank cheque to the complainant. The accused did not adduce any defence evidence.

6) Heard both.

7) (i) Complainant side arguments:-

The complainant and the accused are well known to each other. The accused had borrowed Rs.1,00,000/- and in order to discharge above liability the case cheque Ex.P1 was issued to the complainant. The complainant has proved the case through oral and documentary evidence. The complainant counsel prayed to convict the accused and to award compensation.

(ii) Defence side arguments :-

The accused had received only Rs.50,000/- as loan and had given blank cheque to the complainant for security purpose. The said cheque is misused in this case and this case has been falsely filed as against the accused. On the above grounds, the accused prayed for acquittal from this case.

8) Records perused.

9) Discussion and Decision :-

i) The accused did not deny the signature in the cheque Ex.P1 during the trial. Hence, the complainant is entitled for statutory presumption U/s.118 and 139 of Negotiable Instruments Act. The presumption U/s.139 of Negotiable Instruments Act is drawn in favour of the complainant. Hence, it is presumed that the Ex.P1 cheque was received by the complainant for discharge of the liability of the accused. The accused is now having the burden to prove the contrary to the above presumed facts. The complainant in this case has presented the cheque within validity period. The cheque was returned by the bank unpaid for the reason "Funds Insufficient". The complainant proved the dishonor of cheque through his evidence and return memo Ex.P2. The complainant has sent statutory demand notice Ex.P3 within limitation period. The accused did not pay the amount. The complainant filed this case within limitation period. Hence, in view of above stated reasons, it is decided that the complainant discharged the initial burden of proof as against the accused by proving the necessary ingredients under section 138 of Negotiable Instrument Act.

ii) As the presumption under section 139 of NI Act is in favour of the complainant, the accused can rebut the presumption by proving contrary to the facts presumed by way of probable evidence. The standard of proof required to rebut the statutory presumption is that of preponderance of probabilities. The accused need not get into the witness box to prove his defence. The accused should bring on record the facts and circumstances, upon consideration of which, the court may either believe that the consideration and debt did not exist or that their non existence was so probable that a prudent man would under the circumstances of this case, act upon the plea that he did not exist. The accused to prove his defence may rely upon the circumstantial evidence and if the circumstances so relied upon are compelling, the burden may shift to the complainant.

iii) The accused had sent reply notice to the statutory notice sent by the complainant in this case. In the reply notice, the accused admitted that the accused and the complainant are known to each other. The accused in the reply notice admitted that he borrowed Rs.50,000/- loan from the complainant. The accused in the reply notice admitted executing blank promissory note and stamp papers to the complainant. The accused in the reply notice also admitted issuance of cheque Ex.P1 as blank cheque without mentioning date and amount to the complainant. The accused admitted the fact that he borrowed the amount during the first week of November 2023. The defence of the accused in the reply notice is that he had only borrowed Rs.50,000/- from the complainant during first week of November 2023 and that had paid Rs.1,500/- as interest for the month of December 2023 and January 2024. That the complainant all of a sudden had sent legal notice claiming Rs.1,00,000/- which the accused did not borrow. The cheque Ex.P1 is issued as blank signed cheque and the same has been misused in this case is the defence of the accused as per reply notice. The accused did not produce any evidence to prove that he had only borrowed Rs.50,000/- from the complainant. During cross examination of the complainant, no facts were elicited to prove the fact that the accused had borrowed only Rs.50,000/- and not Rs.1,00,000/-. Further on perusal of the cross examination of the complainant, it is seen that the accused had taken completely different line of defence that Rs.50,000/- was borrowed by the wife of the accused and the cheque Ex.P1 of the accused was issued as security for the said loan. In the cross examination, the further defence of the accused is that the wife of the accused had borrowed Rs.1,50,000/- initially and subsequently borrowed Rs.50,000/- and was paying Rs.2,000/- as interest for the total amount of Rs.2,00,000/-.

iv) During cross examination the complainant admitted the fact that the wife of the accused had borrowed loan from the wife of the complainant. The complainant also admitted the fact that the accused had paid interest during November 2023 and December 2024 through GPay. The complainant during cross examination had deposed that he had lent the loan of Rs.1,00,000/- for monthly interest of Rs.2,000/- . The complainant during cross examination further deposed that he had given Rs.1,00,000/- loan for the family expenses of the accused. The complainant during cross examination denied the suggestion of the accused that the wife of the accused had borrowed Rs.50,000/-.

v) The complainant in his cross examination had clearly deposed that, the transaction with the wife of the complainant is completely different.

vi) The accused is taking two contrary defence in this case. One is that he had borrowed Rs.50,000/- from the complainant and the cheque Ex.P1 is issued as blank security cheque. Another defence is that the wife of the accused had borrowed Rs.50,000/- from the complainant and the cheque Ex.P1 of the accused was issued as blank security cheque. The accused did not adduce any probable evidence to believe the probability of both the defence.

vii) The accused cannot rebut the presumption by way of mere suggestion to the complainant. The accused is under obligation to bring on record some evidence to prove the probability of the defence taken by him. The accused did not elicit any facts from the complainant during cross examination which proves his defence. The complainant had admitted that the wife of the accused had monetary transaction with him. The complainant also had categorically deposed that it was a different transaction. The complainant during cross examination had deposed that the accused borrowed amount for family expense whereas in the complaint it is contended that the accused borrowed the amount for business purpose. In the considered view of this court, the above is the minor contradiction which does not rebut the presumption in respect of the liability claimed by the complainant.

viii) The accused cannot simply take defence of security cheque when he admittedly had financial transaction with the complainant. At this point it is pertinent to note that in Sripati Singh Vs State of Jharkand and another reported in 2021 SCC OnLine SC 1002, the Hon'ble Apex Court held that,

> *17. "A cheque issued as security pursuant to a financial transaction cannot be considered as a worthless piece of paper under every circumstance. 'Security' in its true sense is the state of being safe and the security given for a loan is something given as a pledge of payment. It is given, deposited or pledged to make certain the fulfillment of an obligation to which the parties to the transaction are bound. If in a transaction, a loan is advanced and the borrower agrees to repay the amount in a specified time frame and issues a cheque as security to secure such repayment; if the loan amount is not repaid in any other form before the due date or if there is no other understanding or agreement between the parties to defer the payment of amount, the cheque which is issued as security would mature for presentation and the drawee of the cheque would be entitled to present the same. On such presentation, if the same is dishonored, the consequences contemplated under section 138 and the other provision of N.I. Act would flow".*

So, in view of the above judgment the defence of the accused, that the cheque is security cheque does not rebut the presumption. When the defence of security cheque is taken, the accused should either prove the non-existence of liability or discharge of liability.

ix) The accused did not adduce probable evidence to prove that he had only borrowed Rs.50,000/- and not Rs.1,00,000/- as claimed by the complainant thereby proving non-existence of liability. The accused also did not prove the fact he had discharged the liability claimed in the cheque Ex.P1. In such circumstances, the defence of security cheque would not rebut the presumption in favour of the complainant.

x) The accused cannot rebut the presumption by mere denial or by way of mere plausible explanation. He has to bring on record some probable evidence to believe the probability of his defence that cheque Ex.P1 was misused by the complainant and that he is not liable to pay the cheque amount. But, in this case no such evidence or circumstances was brought on record by the accused to rebut the presumption. On perusal of the cross examination also no facts were elicited in support of the defence of the accused. The defence of the accused that he is not liable to pay the cheque amount cannot be believed without probable evidence. Hence, this court finds that the defence of the accused in this case is very improbable and the evidence on record does not rebut the presumption in favour of the complainant.

xi) Hence, this court finds that the accused failed to rebut the statutory presumption in favour of the complainant. The presumption u/s.139 of NI Act is in favour of the complainant. As such this court presumes that the accused issued the cheque Ex.P1 for valid consideration. The fact of dishonour of cheque and issuance of statutory demand notice is proved through Ex.P2 return memo, Ex.P3 notice and Ex.P5 acknowledgment card. Hence, this court finds that the complainant has proved the ingredients of section 138 of Negotiable Instruments Act. It is also found that the accused failed to rebut the presumption.

In the result, the accused is found guilty and convicted for the offence under Section 138 of Negotiable Instruments Act. This court sentences the accused to undergo simple imprisonment of three months under Section 255(2) of Cr.P.C. The accused is ordered to pay cheque amount as compensation under Section 357(3) of Cr.P.C. to the complainant in default to undergo simple imprisonment of one month.

Dictated to steno typist and typed by her in computer, corrected and pronounced by me in the open court on this the 29th day of July 2026.

LAVANYA V

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Judicial Magistrate No.I,
Chengalpattu.

Annexure:

List of complainant side Witnesses:

PW1 - S.Palani (Complainant)

List of complainant side Exhibits :

Ex.P1/PW1	09.02.2024	Cheque bearing No.000007 for Rs.1,00,000/-
Ex.P2/PW1	12.02.2024	Return memo
Ex.P3/PW1	20.02.2024	Legal notice
Ex.P4/PW1	19.03.2024	Reply notice of the accused

Ex.P5/PW1	27.02.2024	Acknowledgment Card

List of defence side witnesses : Nil.

List of defence side Exhibits : Nil.

LAVANYA V

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Date: 2026.07.29 18:05:15 +0530

Judicial Magistrate No.I,
Chengalpattu.