

IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, PALLAVARAM**PRESENT: Thiru. C.P. MULLAI VANAN, B.A.B.L., (Hon's),****District Munsif cum Judicial Magistrate, Pallavaram****Wednesday, 06th day of May 2026**

2057 திருவள்ளூர் ஆண்டு, 2026 ஸ்ரீ பராயவ வருடம், சித்திரை மாதம், புதன் கிழமை 23-ம் நாள்

STC. No.136/2023**CNR-No. TNCG10-002153-2023****Criminal Rules of Practice 2019, Rule 109 and Hon'ble Madras High Court****R.O.C.No. 814/2021/RC/G1 Dated: 07.04.2021 following particulars are appended**

| S.No | Case Summary | |
|-------------|--|---|
| 01 | Name of the complainant | : Varadharaj, aged about 40 years, S/o. Munusamy, residing at No.5/2, Pilliyar Koil Street, Lakshmpuram, Chrompet, Chennai 600 044. |
| 02 | Provision of law | : u/s 138 of Negotiable Instruments Act |
| 03 | Name of the Accused, Age, Father's Name, Occupation and Residence | Balasubramaniam, S/o. Karuppanna Pillai No.10, Nehruji Street, Anadapuram, East Tambaram, Chennai 600 059. |
| 04 | Date of occurrence | : 12.08.2022 |
| 05 | Date of filing of the complaint | : 12.08.2022 |
| 06 | Date of arrest of the accused | : Does not arose |
| 07 | Period of remand of the accused | : Does not arose |
| 08 | Dated of release on bail of the accused | : Does not arose |
| 09 | Date of committal of the case to the Court of Session | : Does not arose |
| 10 | Date of Commitment | : Does not arose |
| 11 | Date of appearance of the accused | : 07.10.2022 |
| 12 | Date of questioning of the accused U/Sec. 251 of the Code of Criminal Procedure, 1973, as the case may | : 20.10.2022 |
| 13 | Filing of all miscellaneous petitions | : Nil |

| | and their results including the results on challenge before superior Courts ; except petitions like petitions U/Sec. 317 of the Code. | | | | | | | | | | |
|------|---|---|----|-------|-------|------|------------|------------|-----|------------|------------|
| 14 | Date of examination in-chief and cross-examination of a witness | <table border="1"> <thead> <tr> <th>PW</th> <th>Chief</th> <th>Cross</th> </tr> </thead> <tbody> <tr> <td>PW 1</td> <td>07.04.2025</td> <td>22.08.2025</td> </tr> <tr> <td>DW1</td> <td>23.01.2026</td> <td>23.01.2026</td> </tr> </tbody> </table> | PW | Chief | Cross | PW 1 | 07.04.2025 | 22.08.2025 | DW1 | 23.01.2026 | 23.01.2026 |
| PW | Chief | Cross | | | | | | | | | |
| PW 1 | 07.04.2025 | 22.08.2025 | | | | | | | | | |
| DW1 | 23.01.2026 | 23.01.2026 | | | | | | | | | |
| 15 | Date of examination of the accused U/Sec. 313 of the Code | 09.10.2025 | | | | | | | | | |
| 16 | Details of absconding accused and his appearance / production, as the case may be ; and | Nil | | | | | | | | | |
| 17 | Grant of stay by superior Courts and the results there of | Nil | | | | | | | | | |
| 18 | Closure of Trial | 23.01.2026 | | | | | | | | | |
| 19 | Sentence or Order | 06.05.2026 | | | | | | | | | |
| 20 | Service of copy of judgment or finding on accused | In result, this court finds the accused found guilty for the offence u/s.138 NI Act and convicted u/s.255(2) Cr.P.C. and considering the facts and circumstances of the case the accused is sentenced to undergo ' Six Months ' simple imprisonment and ordered to pay Rs.3,50,000/- the cheque amount as compensation to the complainant under Section 357(3) of the Cr.P.C within a period of one month from date of this judgment and in default of payment of compensation amount, the accused shall undergo further four weeks of simple imprisonment. | | | | | | | | | |
| 21 | Explanation of delay | Due to non production of | | | | | | | | | |

| | |
|--|--|
| | witnesses and non appearance of accused. |
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This case was came up before this court for final hearing on this day in the presence of Learned Advocate M/s.C.V. Ilangovan, Counsel for the complainant and Learned Advocate Tmt.Sasirekha, counsel for the Accused and having perused the materials on record and having heard counsels on both sides and having the case stood over for consideration till this date and this court delivers the following:

JUDGMENT

1) The complainant has filed the private complaint u/s.200 Cr.P.C. for the commission of offence punishable u/s. 138 the Negotiable Instruments Act, 1881 (hereinafter referred as N.I. Act) against the accused.

2) Brief case of the Complainant:

2.1) The complainant stated that the complainant is working as Senior Accountant in M/s. G.K. Roofing India Private Limited Company at Nanganallur and he used to park his two wheeler vehicle at the accused two wheeler parking stand at No.180, GST Road, Chrompet, Chennai 600044 for the past 10 years, as a Office goer and being a friendship and good relationship with the complainant, the accused approached him in the month of May 2018 in his two wheeler parking stand demanded hand loan in order to meet his family expenses and his son marriage expenses, and the accused undertakes to return the amount in piecemeal without claiming any interest for the loan amount in order to maintain friendship and goodwill among themselves and the accused assured that he will return, the loan amount in short period.

2.2) The complainant stated that the complainant also accepted his request and given a sum of Rs.4,80,650/- (Rupees Four Lakhs Eighty Thousand and Sixty Fifty Only) to the accused by online transfer to his account in various date. The accused has returned only a sum of Rs.1,30,650/- out of Rs.4,80,650/- by piecemeal by the following cheque payments.

2.3) The complainant stated that he has not fulfilled his undertaking by way of not paying the balance amount of Rs.3,50,000/- whenever the complainant approached the accused in his two wheeler parking stand at Chormpet many times for the repayment of balance amount of Rs.3,50,000/- the accused tender excuses for not paying the debts and intend to evade payment. On 26.05.2022 approached the accused and demanded the balance amount in his two wheeler parking stand at Chrompet, the accused has executed a undertaking letter to the complainant in which he has stated that he will settle the entire balance amount of Rs.3,50,000/- on 06.06.2022 in presence of the witnesses Thiru. R. Ramesh, D Ravi and R. Rajasekar of who are the resident of Lakshmipuram,

2.4) The Complainant further submits that the accused failed to keep up his promise and failed to settle the amount on 06.06.2022. Therefore the complainant went to his two wheeler keep up his promise and failed to settle the amount on parking stand on 13.07.2022 and insist him to pay the debts due to him the accused issued one signed cheque bearing on Karur Vysva Bank. East Tambaram Branch and the accused No.000130 dated 13.07 2022 for a sum of Rs.3,50,000/- drawn assured that he will arrange sufficient funds in his account. As per the request and undertaking of the accused the complainant presented the above said cheque bearing No.000130 for collection with his Banker D.B.S. Bank, India limited, Chrompet Branch (211) 13.07 2022 but the cheque was

returned by the bank with an endorsement "FUNDS INSUFFICIENT" on in the accused maintaining the account in his bank on 14.07.2022.

2.5) The complainant submit that he has issued a legal notice to the accused on 19.07.2022 and calling upon him for the payment of the above said amount of money due on the dishonoured cheque with in the time of mandatory provisions of time, the accused had receive the notice and the same was duly acknowledged by him on 28.07.2022 and the deliver confirmed by the postal authority by online tracking but the accused failed to settle the amount and instead of settle the lawfully enforceable debts the accused has given a baseless and vexations reply for evading dues. The accused has issued the cheque without sufficient funds in his operating personal name Bank Account and consequences thereof the accused has committed the offence punishable u/s. 138 Negotiable Instrument Act.

3) On receipt of the complaint, after recording the sworn statement of the complainant and also upon the perusal of the documents, having found a prima facie satisfaction of the case involving the offence u/s 138 of NI Act taken cognizance on the basis of the complaint u/s 190 (1) (a) of Cr.P.C against the accused. The accused had appeared on issuance of summon. On appearance of the accused, copies of the complaint was furnished to the accused on free of cost. After granting sufficient time to the accused and upon careful perusal of entire records this court finds that prima fascie case was made out against the accused to try the offence u/s 138 of NI Act and the substance of accusation for the above offence was read and explained to the accused as per section 251 of Cr.P.C. The accused denied the accusation as false and not raised any specific defence and claims to try the case. Thereafter the case was posted for complainant side evidence and ordered to issue summons to the complainant

side witnesses.

4) On the side of complainant, the complainant Tr.Varadharaj, was examined as PW 1 and marked exhibits Ex. P 1 to Ex. P6. After completion of the complainant side evidence, the accused was questioned u/s 313(1)(b) of Cr.P.C about the incriminating circumstances and evidences against the accused, to which the accused had denied all those evidences as false. Further on the accused side, the accused Tr.Balasubramanian was examined as DW1 and Ex.D1 and Ex.D2 were marked.

5) Records perused. Heard both sides. Both sides written arguments filed and citations field.

6) The point to be decided is whether the complainant has proved the guilt of the accused for offence u/s.138 NI Act beyond reasonable doubt.

7) Brief facts of the complainant case as per evidence:-

7.1) The accused had obtained hand loan for his family expenses and for marriage expenses of the son of accused from the complainant for total sum of Rs.4,80,650/- through online bank transaction and by way of cash and thereafter several demands made the accused had paid Rs.1,30,650/- and for the remaining balance amount the accused issued a cheque drawn at Karur Bank, Tambaram Branch cheque bearing no.000130 for the sum of Rs.3,50,000/- dated 13.07.2022 and the complainant had presented the above cheque for encashment at DBS Bank Chrompet Branch, Chennai but the cheque was returned as unpaid due to funds insufficient dated 14.07.2022 and the complainant had issued a legal notice to the accused on 19.07.2022 and the accused received the notice on 28.07.2022 and not paid the cheque amount.

7.2) Ex.P1 which is the original undertaking letter given by accused to the complainant on 06.06.2022. Ex.P2 which is the original cheque bearing no.000130 for the sum of Rs.3,50,000/- dated 13.07.2022 drawn at Karur Vysya Bank Ltd, East Tambaram Branch, Ex.A3 which is the original return memorandum dated 14.07.2022, Ex.A4 which is the office copy legal notice along with postal receipt dated 19.07.2022, Ex.A5 which is the online postal tracking acknowledgment dated 28.07.2022 and Ex.P6 which is web copy of bank account statement dated 30.11.2019.

7.3) The complainant was examined as PW1 and he deposed to the complaint filed and Ex.P2 shows that the accused had issued a cheque as bearing no.000130 for the sum of Rs.3,50,000/- dated 13.07.2022 drawn at Karur Vysa Bank Ltd, Tambaram Branch and the complainant presented the above cheque for realization through the complainant's banker DBS bank, Chrompet Branch but the said cheque was returned as dishonored by the accused banker for the reason as "funds insufficient" vide return memo dated 14.07.2022 which was marked Ex.P3.

7.4) The complainant also sent a statutory notice dated 19.07.2022 to the accused through registered post with acknowledgment due bringing to the knowledge of the accused about the dishonor of the cheque on account of reason as "funds insufficient" as intimated by the accused banker and requested the accused to make payment within 15 days from the date of receipt of the said notice and the statutory notice along with postal receipt was marked as Ex.P4 and the said notice was served on the accused which was evident from online postal tracking acknowledgment card dated 28.07.2022 which was marked as Ex.P5. The accused having received the said notice failed to make any payment of the dishonored cheque amount of Rs.3,50,000/- to the complainant.

8) Before appreciating the facts of the present case in detail, it is relevant to see the position of law in respect of proof of the offence u/s.138 of N.I. Act. For the offence u/s. 138 of N.I. Act to be made out against the accused, the complainant must prove the following conditions whether,

a) The accused has been issued a cheque drawn on account maintained by him.

b) The said cheque has been issued in discharge, in whole or in part of any legal debt or other liability.

c) The said cheque has been presented to the bank within a period of three months from the date of cheque or within a period of its validity whichever is earlier.

d) The said cheque, when presented for encashment, was returned unpaid or dishonored.

e) The complainant had issued a legal notice of demand to the drawer/accused within 30 days from the date of receipt of information about the return of the cheque.

f) The accused failed to make the payment within 15 days from the date of the receipt of the above said legal notice.

g) And the complaint was filed within one month from the date on which cause of action arise.

9) Now it is to be seen whether the complainant has discharged the initial burden of proof that the above ingredients are proved by the complainant or not. The cheque in question Ex.P2 dated 13.07.2022 was drawn by the drawer Tr.Balasubramanian who is the accused herein from the drawee bank karur Vysa Bank Tambaram Branch and the accused also not raised any defence that the said cheque does not belonged to him and not denied his signature in the cheque

not raised specific defence in this case during the first questioning. Moreover Ex.P2 was presented for encashment which was presented within the period of three months from the date of cheque and the same was dishonoured for the reason as "Funds insufficient " and it is also not disputed as it is a matter of record proved by return memo dated 14.07.2022 which was marked as Ex.P3. Therefore, it is a matter of record and the same has been proved that the cheque in question Ex.P2 was presented within validity period and dishonoured by the banker of the accused which was evident from Ex.P3. The legal notice Ex.P4 was also sent to the accused dated 19.07.2022 which was within the statutory period of one month from the date of issuance of return memorandum. after receipt of legal notice Ex.P5 dated 28.07.2022 which was evident from online postal tracking acknowledgment but the accused has not repaid the cheque amount. Further the above complaint was also filed within the period of limitation also.

10) In the present case, the essential ingredients of the Section the 138 of Negotiable Instruments Act has been proved as held by the *Apex Court in Indian Bank Association Case reported in 2014(5) SCC 590, in para 18. "We make it clear that if Provisos (a),(b) and (c) to section 138 of the Act are shown to have been complied with, technically the commission of the offence stands completed and it is for the accused to show that no offence could have been committed by him for specific reasons and defences"*. In this case the accused has not denied his signature found in the cheque in question Ex.P1 and also not raised any specific defence in first questioning. Therefore, when once the signature is admitted by the accused the presumption under Section 139 and 118 of NI Act would come to operation.

11) The complainant has also produced primary evidence pertaining to the cheques and return memo which was also not disputed by the accused.

Therefore the complainant through the oral and documentary evidence has discharged the initial burden in proving the case and therefore presumption under section 139 of Negotiable Instruments Act lies in favour of the complainant. Since the complainant had discharged the initial burden in proving the case, the accused has to rebut the presumption stands in favour of the complainant u/s.118 and 139 of NI Act. The evidence on the accused side must be so probable to defend the case of the complainant in this case.

12) Now, this court must consider whether the accused was able to probalilise his defence through cross examination of PW1 in order to rebut the presumption standing in favour of the Complainant. In this case the accused has not denied the issuance of cheque to the complainant and not denied his signature in the cheque and moreover the accused also admitted the issuance of cheque to the complainant and the cheque was also returned as funds insufficient in the accused bank account and in such circumstance the onus lies on the accused to rebut the above presumption. But the accused has not established that he was having sufficient amount in his bank account either by way of production of statement of bank account or through cross examination with the PW1.

13) The next point to be determined is that whether the accused was able to propobalise his defence to rebut the presumption stands in favour of the complainant. Upon perusal of Ex.P4 legal notice the complainant alleged that the accused had borrowed a sum of Rs.4,79,500/- from the complainant through online transaction and cash from the period of 11.07.2018 to 18.01.2020 for family expenses and marriage expenses and out of the above amount the accused had paid Rs.1,29,500/- and for the remaining balance amount of Rs.3,50,000/- the above cheque Ex.P2 was issued. Resisting the above averment in notice the accused issued a reply notice dated 03.08.2022 which was marked during cross examination of PW1 as Ex.D1 and the same was also received vide

acknowledgment card dated 06.08.2022 which was marked during cross examination of PW1 as Ex.D2 but the above said documents were not filed by the complainant in his complaint but the same was marked during the cross examination of PW1.

14) On perusal of Ex.D1 the accused submitted that he had paid all amounts received from the complainant by cash and bank transaction and the complainant had received 22 signed blank cheques and there is due of Rs.96,000/- to the complainant and the accused need 3 months time to repay the amount of Rs.96,000/-. The above admission made by the accused in the reply notice clearly shows that there was a financial transaction existed between the complainant and accused from the above period mentioned by the complainant. Since the accused had admitted the existence of financial transaction with the complainant the burden lies on the accused to discharge the presumption in favour of the complainant.

15) As the accused has disputed transactions amount with the complainant the burden lies on the accused to disprove the said transactions. The accused contended that he had repaid the sum of Rs.1,30,650/- on 17 installments through bank transaction and only due of Rs.96,000/- is pending. The above assertion of the accused shows that there is financial transaction existed between the complainant and accused and the above admission is clear admission of assertion of complainant that the accused had repaid Rs.1,30,650/- out of outstanding of Rs.4,80,650/-. As the presumption stands in favour of complainant that Ex.P2 cheque was issued for the debt amount of Rs.3,50,000/- the burden lies on the accused to disprove the non existence of total due amount of Rs.4,80,650/-. Even though, the accused has cross examined the PW1 no fruitful evidence would be gathered from the PW1.

16) Further the accused also admitted the signature in Ex.P1 during his cross-examination whereas on perusal of Ex.P1 which is the undertaking letter executed by the accused thereby agreed to pay the amount of Rs.3,50,000/- to the complainant. But the accused denied that Ex.P1 was executed by force and criminal intimidation but the accused has not examined any attesting witness of Ex.P1 to establish the above defence. Therefore, this court comes to the conclusion that Ex.P1 was executed by the accused in favour of the complainant.

17) In this case the accused having admitted the signature in the disputed cheque and the complainant having proved the cheque was issued by the accused, but the defence side has failed to disprove or raise probable defence to the case of the complainant. Further the accused has issued reply notice for the legal notice and admitted there is existence of debt but disputed the value of the debt. Eventhough on the accused side it was strenuously cross examined PW1 but no fruitful evidence could be gathered from the PW1. The burden shifted on accused side, has not been rebutted by the accused side by any probable evidence. Moreover, the accused also not raised any specific defence that he had repaid the cheque amount to the complainant which shows that the accused had not repaid the cheque amount even after receiving the statutory notice Ex.P4. Moreover mere suggestion and statement of the accused that it was given for security purpose cannot be a probable defence to rebut the presumption in favour of the complainant. Hence the contention of the accused is not substantiated by oral or documentary evidence on his side. Therefore the contention of accused is not legally sustainable in the absence of any valid evidence or reasonable doubt created upon the case of the complainant.

18) Further in this case also the signature of the accused in Ex.P2 was not disputed by the accused, while he was explained about the substance of accusation against him under section 251 of Cr.P.C and also when he was questioned under Section 313(1)(b) of Cr.P.C. and the same belonged to the account maintained by the accused stands proved and thus the initial presumption under the Section 139 read with Section 118 of the NI Act comes into operation in favour of the complainant. It is duty of the accused to disprove the case of the complainant and it is his duty to prove that he does not owe any sum of amount to the complainant. Therefore, in absence of any other relevant material, the defence of accused does not inspire confidence or meet the standard of 'preponderance of probability' and the defence of the accused is not sustainable. Further mere a creation of doubt on the defence side but not proved upon by valid evidence on his side cannot be considered that the defence side has rebutted the presumption in favour of the complainant in this case.

19) Therefore from the above discussion this court comes to the conclusion that the accused had miserably failed to rebut presumption which favour the complainant through sufficient oral and documentary evidence and failed to disprove the case of the complainant. Therefore in the absence of any convincing evidence on the accused side to rebut the presumptions in favour of the complainant, this court holds that the disputed cheque has been issued by the accused in discharge of the legally enforceable debt or liability for the amount mentioned in the disputed cheque for a sum of Rs.3,50,000/-. Hence the accused is found guilty under section 138 of the NI Act and liable for conviction for the offence under Section 138 of the NI Act.

20) In fine, this court finds the accused found guilty for the offence u/s.138 NI Act and convicted u/s.255(2) Cr.P.C. and considering the facts and circumstances of the case the accused is sentenced to undergo 'Six Months' simple imprisonment and ordered to pay Rs.3,50,000/- the cheque amount as compensation to the complainant under Section 357(3) of the Cr.P.C within a period of one month from date of this judgment and in default of payment of compensation amount, the accused shall undergo further four weeks of simple imprisonment.

Dictated directly to the Steno - Typist and directly typed by him and corrections were carried out and pronounced by me in open court on this 06th day of May 2026.

Sd/-C.P. Mullai Vanan,
District Munsif cum
Judicial Magistrate,
Pallavaram.

I) COMPLAINANT SIDE WITNESS :-

| S.No. | WITNESS | NAME |
|-------|---------|---------------|
| 1) | PW 1 | Tr.Varadharaj |

II) COMPLAINANT SIDE EXHIBITS:

| S.No. | EXHIBIT | DATE | DOCUMENTS | REMARKS |
|-------|---------|------------|---|----------|
| 1) | Ex P1 | 06.06.2022 | Undertaking letter | Original |
| 2) | Ex P2 | 13.07.2022 | Original cheque bearing no.000130 for the sum of Rs.3,50,000/- drawn at Karur Vysya Bank Ltd, East Tambaram Branch, | Original |

| | | | | |
|----|-------|------------|--|-------------|
| 3) | Ex P3 | 14.07.2022 | Cheque return memorandum | Original |
| 4) | Ex P4 | 19.07.2022 | Legal notice along with postal receipt | office copy |
| 5) | Ex P5 | 01.12.2019 | Online postal tracking acknowledgment | Web copy |
| 6) | Ex P6 | 01.12.2019 | Bank statement | Online copy |

III) DEFENCE SIDE WITNESSES :

| S.No. | WITNESS | NAME |
|-------|---------|--------------------|
| 1) | DW 1 | Tr.Balasubramanian |

III) DEFENCE SIDE EXHIBITS:

| S.No. | EXHIBIT | DATE | DOCUMENTS | REMARKS |
|-------|---------|------------|----------------|-------------|
| 1) | Ex.D1 | 03.08.2022 | Reply Notice | Office copy |
| 2) | Ex.D2 | 06.08.2022 | Acknowledgment | Original |

Sd/-C.P. Mullai Vanan,
District Munsif cum
Judicial Magistrate,
Pallavaram.

//True Copy//

District Munsif cum
Judicial Magistrate,
Pallavaram.

In the Court of DM Cum JM at Pallavaram.

Dated:06.05.2026

STC.No.136/2023

Judgment Pronounced.

Complainant Present. Accused present. Both side heard. records perused. Judgment pronounced in open court. In fine, this court finds the accused found guilty for the offence u/s.138 NI Act and convicted u/s.255(2) Cr.P.C. and considering the facts and circumstances of the case the accused is sentenced to undergo 'Six Months ' simple imprisonment and ordered to pay Rs.3,50,000/- the cheque amount as compensation to the complainant under Section 357(3) of the Cr.P.C within a period of one month from date of this judgment and in default of payment of compensation amount, the accused shall undergo further four weeks of simple imprisonment. Detailed Judgment vide separate sheet.

DM cum JM,
Pallavaram