

IN THE IV ADDITIONAL SESSIONS COURT, CHENNAI.

**Present: Tmt. R.K.P.Tamilarasi, M.L.,
IV Additional Judge**

Wednesday, the 15th day of July, 2026

Criminal Appeal No.752 of 2023

CNR No.TNCH01 - 035854-2023

against

C.C.No.3192 of 2019

From which Court the appeal is : The Learned Metropolitan Magistrate, Fast Preferred Track Court-II, Egmore at Allikulam, Chennai.

Name and description of the Appellant/Accused : A. Ehambaram,
S/o.Arumugam,
No.7, 4th Street, Brindavan Nagar, Avadi,
Chennai.

Name and description of the Respondent/Complainant : N.Dilli, S/o.Late.Narayanan,
New No.199, Old No.131,
Vardhammal Garden, Kilpauk,
Chennai.

Judgment passed by the :

Trial Court

In the result, the accused is found guilty for the offence punishable u/s.138 of N.I. Act, and sentenced to undergo Six months Simple Imprisonment and to pay the cheque amount of Rs.1,41,000/- as compensation to the Complainant U/S.357 r/w 138 N.I. Act, within 30 days from the date of the Judgment; in default, the accused shall undergo further period of Two months Simple Imprisonment.

Result of this Court : In the result, this Criminal Appeal is allowed. The conviction and sentence passed by the Learned Metropolitan Magistrate, Fast Track Court-II, Egmore at Allikulam, Chennai, against this appellant/accused in C.C.No.3192/2019 dated 21.06.2023 is hereby set aside in view of the offence u/s.138 of N.I Act, has been compounded by the parties and consequently the appellant/accused is hereby acquitted from the charge levelled against them by the complainant u/s.147 of N.I Act.

Date of filing of C.A. : 01.12.2023
Date of taken of file : 02.01.2024
Date of Hearing : 10.07.2026
Date of Judgment : 15.07.2026

This Criminal Appeal came for final hearing on 10.07.2026 before this Court in the presence of M/s.A.Balasingh Ramanujam, M.Manimaran, P.Mahendrchand and R.Senthil Kumar Counsels for the Appellant/Accused and of M/s.G.Anand Kumar, S.Vignesh, R.Mahendran and G.Reshma. Counsel for the Respondent/Complainant and on perusing the grounds of Appeal, other relevant documents and upon hearing the arguments on both sides and having stood over for consideration till this day, this Court delivered the following:-

JUDGMENT

This Criminal Appeal preferred by the Appellant/Accused against the Judgment of conviction passed in C.C.No.3192/2019 dated 21.06.2023 by the learned Metropolitan Magistrate Fast Track Court-II, Egmore at Allikulam, Chennai.

02. Brief facts of the case of the Complainant :

The accused had availed a loan of Rs.1,41,000/- from the complainant on various dates. Towards repayment of the said loan amount, the accused had issued a cheque dated 28.06.2018 bearing No. 864248 drawn on State Bank of India, Avadi, Chennai, for a sum of Rs.1,41,000/-. The complainant had presented the said cheque for collection with his Bank namely Indian Bank Sterling Road, Chennai Branch and the same was returned on 23.08.2018 due to 'Insufficiency of Fund'. In this regard, the complainant issued a notice dated 20.09.2018 to the Appellant/Accused called upon to pay the cheque amount within a period of 15 days from the date of receipt of the said notice. After receipt of the said notice, the Accused did not pay the cheque amount. Hence, the accused had committed an offence under the Negotiable Instruments Act.

03. Before the Trial Court, the sworn statement of complainant was recorded by this court and after perusing the records, this court has taken cognizance of the case. On appearance of accused free copies of the records in compliance of Section 207 Cr.P.C. were furnished to him. After perusal of the records, as there was a prima facie case against the Accused, the substance of the allegation of the offence u/s 138 N I Act was read over, explained and questioned in Thamizh and the accused denied the same and claimed to be tried.

04. On the side of the complainant, the complainant was examined as P.W.1 through him Ex.P1 to P10 documents were marked. On the side of the Accused, the accused was examined as D.W.1 through him Ex.D1 document were marked. Incriminating substances and materials adduced on the side of the complainant were taken out and the accused was questioned about the evidence against him u/s. 313 (1) (b) of Cr.P.C., the accused denied the evidence against him and wanted to examine witness. On the side of the accused, the accused was examined as DW1 through him Ex.D1 (Receipts) was marked.

05. After full trial, the learned Metropolitan Magistrate Fast Track Court-II, Egmore at Allikulam, Chennai has found that the accused is guilty for the offence punishable u/s.138 of N.I. Act, and sentenced to undergo Six months Simple Imprisonment and to pay the cheque amount of Rs.1,41,000/- as compensation to the Complainant U/S.357 r/w 138 N.I. Act, within 30 days from the date of the Judgment; in default, the accused shall undergo further period of Two months Simple Imprisonment.

06. Aggrieved by the Judgment of the Trial Court, the Appellant/accused had preferred this Appeal and raised many grounds in ground of appeal and prayed to set aside the judgment and sentence dated 21.06.2023 in C.C.No.3192/2019.

- The Trial Court miserably failed in placing the reliance under Section 139 of NI Act namely the presumption in favour of the holder and had not considered the fact that the appellant had established a case against such presumption.
- The finding of the trial court that though the signature is admitted the appellant had to establish the case beyond reasonable doubt is not correct. Whether the cheque has been issued for legally enforceable one or not is a vital aspect and the same is asking in the above complaint and the respondent appeared to have issued notice wrongly as 20.09.2018 for which he issued another notice to rectify the same by way of Exhibit P9 to change the date as 01.08.2018 instead of earlier notice dated 20.09.2018 which cannot be done under the NI Act and trial court did not consider legal aspect of issuing second notice and gave a wrong finding under the circumstances the order passed by the trial court is not sustainable in the eye of law and may not be sustainable under the fact and circumstances of the case of the appellant is to be allowed.
- The trial court came to a conclusion that the appellant failed to rebut the presumption under 139 of NI Act is absolutely wrong. The trial court failed to analyse the preponderance of probabilities in a proper manner and gave a wrong finding as against the established principles of natural justice and the above order was came to be passed by the lower court in a mechanical manner and the same is being challenge before this court. The cheque is admitted by the appellant and the signature found in the cheque is also admitted and the finding and the fact that the appellant has to shift the burden

is not correct and the initial burden is always on the shoulder of the respondent/complainant evidence under the circumstances finding of the trial court is a perverse finding. The trial court failed to consider evidence in a proper and prospective manner and passed mechanically without analyzing the legal principles.

- The respondent filed the above C.C.No.3192 of 2019 before the lower court against the appellant. The Learned Metropolitan Magistrate Fast Track Court-II, Egmore at Allikulam, Chennai by the order dated 21.06.2023 allowed the complaint and there by convicted the appellant to undergo Six months Simple Imprisonment and also to pay a compensation amount of Rs.1,41,000/- being the value of the cheque to the respondent/complainant and failing which the appellant has to undergo Simple Imprisonment for another period of two months and one month time was given by the trial court for the compliances, challenging the same the present appeal has been filed by the appellant before this court among the following grounds of Appeal. The Lower Court failed to consider the evidence adduced in a proper and prospective manner and wrongly shifted the burden of proof on the shoulder of the appellant instead of the respondent.

07. Point for determination:-

Whether the case can be compounded under the provision of Section 147 of Negotiable Instruments Act, in the appellate stage and whether the accused is entitled for acquittal?

08.Point for consideration:

Heard both side and perused the records. The petitioner/complainant filed the calendar case in C.C.No.3192/2019 for dishonour of cheque u/s.138 of Negotiable Instrument Act 1881 before the learned Metropolitan Magistrate, FTC-II, Egmore at Allikulam, Chennai, after full contest on merits, Judgment was passed on 21.06.2023. Aggrieved the said Judgment, the appellant/accused preferred an Appeal along with an application for suspension of sentence before this Court. The Principal Sessions Court, Chennai, suspended the sentence in Crl.M.P.No.21695/2023 on 01.12.2023 on condition to deposit 20% of the total compensation amount before the Trial Court at the credit of C.C.No.3192/2019 within two months. As per the above said order, the Appellant/Accused deposited

the 20% of the compensation amount of Rs.28,200/- on 01.12.2023 and the same is lying in the credit of C.C.No.3192/2019.

09. Pending this Criminal Appeal, this Court referred the case to Mediation/Conciliation but both the parties not willing for mediation. Now, this case is compromised between the parties before the Presiding Officer of this Court on 19.06.2026 and the Appellant/Accused agreed to pay the balance amount of Rs.1,05,000/- as full and final settlement to the Respondent/Complainant on or before 10.07.2026.

10. The learned counsels appearing for the Appellant/Accused and the Respondent/Complainant stated that, both parties have amicably settled their disputes without any coercion, undue influence or misrepresentation. In this regard, the Appellant/Accused and the Respondent/Complainant, both parties settled this matter between themselves and jointly filed a Joint Compromise Memo and the same was recorded and filed a petition u/s.147 of N.I.Act, for compounding the offence and the said petition was allowed.

11. On perusal of Joint Compromise Memo and petition filed u/s.147 of N.I.Act by both parties for compounding the offence between them, it clearly shows that, this matter is settled between both the parties for compensation amount of Rs.1,33,200/- towards full and final settlement. The details of the Settlement arrived between the parties in the following manner.

(i) the Appellant/Accused had deposited 20% of the compensation amount of Rs.28,200/- on 01.12.2023 as per the order passed in Crl.M.P.No.21695/2023 and the same is lying in the credit of C.C.No.3192/2019 and the said amount was withdrawn by the Respondent/Complainant by way of filing payment out petition in Crl.M.P. No.1/2026 dated 19.06.2026.

(ii) Further, on 10.07.2026 the petitioner/accused had paid the balance amount of Rs.1,05,000/- by way of cash to the Respondent/Complainant.

From the above said compromise, both parties agreed that, there is no further amount due and payable by the Appellants/Accused and all claims between the parties stand fully satisfied by signing this Compromise Memo. Further, the Respondent/Complainant has no objection for disposing this Criminal Appeal No.752/2023 on terms of this Joint Compromise Memo.

12. As such, it shall be presumed that the appellant and the respondent had mutually settled their compensation amount and thereby they have compounded the offence as per the provision of Section **147 of Negotiable Instruments Act which reads as follows:-**

“Offences to be compoundable- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable”

13. Whether the case can be compounded in the appeal stage is the question to be decided. In a case law in *Anil Kumar Haritwal and Another Vs. Alka Gupta and Another reported in 2004 Criminal Law Journal 3853 (SC)*, the Hon’ble Supreme Court has held as follows:-

“The prayer of the parties seeking to settle the dispute and praying for setting aside the conviction and sentence should be allowed. This appeal setting aside the conviction and sentence imposed on the appellants in the interest of justice in view of the fact that the dispute is settled between the parties and Section 147 of the Negotiable Instruments Act permits compounding of the offence”.

14. The above said conduct of the parties herein, would clearly attract the intention of the legislatures in enacting the provision of Section 147 of the Negotiable Instruments Act. When the offence is a compoundable one and when the parties to the appeal had settled their dispute in an amicable manner, it is the duty of the Court to see that, the parties herein shall leave the Court in a peaceful mind and for which, the Court has to pass a suitable order to meet the ends of justice. Since the parties to the appeal had settled their dispute and keeping in view of the spirit of Section 147 of Negotiable Instruments Act, it is necessary for this

Court to allow the appellant and the respondent to compound the offence and to set aside the Judgment of conviction passed on 21.06.2023 by the learned Metropolitan Magistrate, Fast Track Court-II, Egmore at Allikulam, Chennai in C.C.No.3192 of 2019. Considering the above stated circumstances and in the interest of justice, this Court finds that this appeal is allowed and the appellant/accused is acquitted from the charge levelled against him and this point is decided accordingly.

In the result, this Criminal appeal is allowed. The conviction and sentence passed by the Learned Metropolitan Magistrate Fast Track Court-II, Egmore at Allikulam, Chennai, against this appellant/accused in C.C.No.3192/2019 dated 21.06.2023 is hereby set aside in view of the offence u/s.138 of N.I Act, has been compounded by the parties and consequently the appellant/accused is hereby acquitted from the charge levelled against them by the complainant u/s.147 of N.I Act.

Dictated to the steno-typist directly and computerized by her, corrected and pronounced by me in open court, this Wednesday, the 15th day of July, 2026.

IV Additional Sessions Judge,
City Civil & Sessions Court, Chennai.

Copy to:

The Learned Metropolitan Magistrate,
Fast Track Court-II, Egmore at Allikulam,
Chennai.

Draft/Fair/Copy Judgment

**Crl.A.No.752/2023 in
C.C.No.3192/2019**

Date:15.07.2026

**IV Additional
City Civil Court,
Chennai**