

IN THE COURT OF THE JUDICIAL MAGISTRATE NO.II**Present: C.DINESH KUMAR B.A.LL.B(Hons), LL.M.,****Judicial Magistrate No.II, Dindigul****On Wednesday, the 29th day of July 2026****Calender Case (C.C) No. 352 of 2018****CNR No. TNDG03-002662-2018**

Sri Ram & Company,
 represented by its Prartners through their power of attorney
 Mr. Venkatesh 43/2018,
 S/o. Veerajeyamani
 193/1-B, Palani Road, Meenatchinaickenpatty(PO),
 Dindigul.

... Complainant

// Vs //

1. SS Woden Packers
 Represented through its partners
 15/A, NA, Madira Vedu,
 Thiruverkadu,
 Chennai,
 Tamilnadu.

2. Shangar Chandren,
 Partner in SS Woden Packers
 15/A, NA, Madhira Vedu,
 Thiruverkadu,
 Chennai,
 Tamilnadu.

3. Rajendren Suresh,
 Partner in SS Woden Packers
 15/A, NA, Madhira Vedu,
 Thiruverkadu,
 Chennai,
 Tamilnadu.

...Accused

Case – Summary

<i>Statement as per rule 106 of criminal rules of practice, 2019</i>			
S.No	Description	Details	
1.	Serial Number	Calender Case (C.C) No.352 of 2018	
2.	Name of the Police station and crime Number	Not applicable	
3.	Name of the accused	1. SS Woden Packers- A1 Company 2.Shangar Chandren 3.Rajendren Suresh --	
4.	Father's Name		
5.	Occupation		
6.	Residence		
7.	Age	--	
8.	Date of occurrence	Not applicable	
9.	Date of complaint	18.06.2018	
10.	Date of apprehension	Nil	
11.	Date of release on bail	Nil	
12.	Date of commitment	Not applicable	
13.	Date of questioning and plea of the accused	On 04.01.2021 the accused questioned on substance of accusation U/s. 138 NI Act. Accused denied the case as false and pleaded not guilty and claims to be tried.	
14.	Date of commencements of trial -The date of examination – in chief and cross-examination of a witness	Witnesses	Examined in – Chief
		PW1	20.06.25
15.	The date of examination of the accused under section 313 of the code – Closed of trial	Examined - in Cross 08.05.26	
		31.10.2025	

16.	Sentence on order	In the result, A1 to A3 is found guilty for the offence U/s. 138 of Negotiable Instruments act and A1 to A3 is convicted under Section 248(2) Cr.P.C and A2, A3 is sentenced to undergo simple imprisonment for the period of One Year, and A2, A3 is directed to pay the fine of Rs.7,47,619/- (Cheque Amount) (Rupees Seven Lakhs and Forty seven thousand and Six hundred and nineteen only) as compensation under section 357 of Cr.P.C. to the complainant within two months, in default the A2, A3 shall undergo further period of two months simple imprisonment. The custody period if any already undergone by the A2, A3 shall be set off under Section 428 of Cr.P.C.
17.	Service of copy of Judgment or finding on accused	No. The Judgment was uploaded on CIS portal and made available in E- Courts
18.	Explanation of delay	There is no inordinate in the disposal of the case
19.	Property order	No case property was seized and hence no property order passed.

This case having been taken on file 25.06.2018 and coming up for final hearing before me today in the presence of Advocate Mr.C.Rexin Raj, for the Complainant and the accused being defended by Advocate, Thiru.K.Thenrajan, and

the case having stood over for consideration till this day on considering the material papers, this court delivered the following

JUDGMENT

The complainant had filed a private complaint under section 200 of Cr.P.C, against the accused under Section 138 of the Negotiable Instruments Act.

I. THE CASE OF THE COMPLAINANT IN BRIEF IS AS FOLLOWS:

1. The case of the complainant is that, A2 is the complainant partner of the Company which is A1 and they were actively involved in the bussines between the complainant for purchasing of Timber. While being so, the accused had approached they complainant for purchasing the timber and the complainant had also accepted to cell the timber to the accused company. And hence the timber were sold through invoice No. 679 on 30.12.2016 worth of Rs. 2,63,526/- and invoice No. 724 on 12.01.2017 worth of Rs. 2,94,856/- and invoice No. 833 on 16.02.2017 worth of Rs. 2,63,633/-. But the accused had not paid the amount for long period and thereafter on request, the accused had paid the part amount from the total amount and the remaing balance amount of Rs.7,47,690/- were to be paid to the complainant. It is also further stated that, on 28.01.2018 the accused came to complainant office and had issued two filled a cheque No.007372 dated. 01.02.2018 for a sum of Rs.1,89,100/- and another cheque No. 007374 dated 03.02.2018 for a sum of Rs.5,58,519/- which belongs to ICICI Bank, Korattur, Chennai and told the Complainant to present the cheque in the bank and withdraw the amount and thereafter the complainant had presented the both cheque on

03.04.2018 in Karur vysya Bank Dindigul for collection and the same was returned on 04.04.2018 for reason of “Insufficient Funds” and thereafter the complainant had sent legal notice through his advocate on 13.04.2018 and the accused had received the notice on 27.04.2018, 12.05.2018. The accused had not repaid the amount till date. Issuing a cheque without honouring the same is punishable offence under this act and thus the accused had committed the offence punishable U/s. 138 of the Negotiable Instruments. Hence, the complainant has preferred this complaint against the accused.

2. After receipt of the complaint, the complainant examined upon oath and after recording the sworn statement, the court considers that there is a prima facie case and there is sufficient ground for proceeding against the accused. The complaint was taken on file and summons were issued for the appearance of the accused. On the appearance of accused, copies were furnished to him and substance of the offence stated to him and the accused asked whether he pleads guilty or has any defence to make. The accused pleaded not guilty and claims to be tried and thus posted for the Complainant's side evidence. As per the dictum laid down in “**Indian Bank Association case (2014 (2) SCC (Cri) 652)**” in Para. 18 and as directed in the latest dictum in “**M/s. Meters and Instruments Private Limited Case reported in CDJ 2017 SC 1113**” the complainant examined as PW1 and had let in his pre cognizance evidence in the form of proof affidavit and had marked the documents. The Proof affidavit was received and the exhibits Ex.P1 to Ex.P10 were marked.

II. QUESTIONING U/S. 313(1)(b) OF Cr.P.C 1973

3. On completion of the evidence on the side of the complainant, The incriminating evidence appearing against the accused given by the complainant side witnesses were read over and explained to the accused U/s.313(1)(b) Cr.P.C. and accused denied the evidence as false and complainant side evidence closed.

4. On the side of defence, No examined. No exhibits marked on the side of the Defence.

III. POINT FOR DETERMINATION

5. The point for determination is whether the complainant has proved his case, that the accused issued a cheque for discharge of legally enforceable debt and the same being dishonoured ?

IV. ARGUMENT ADVANCED

6. The complainant argued that through the documents, he very well proved his case beyond any reasonable doubt and the accused has not rebutted the presumption by means of probable defence. And through the evidence adduced by the complainant it is well proved that it is a legally enforceable debt and the accused does not prove or rebutted the evidence of complainant through any of the document. Hence the accused is liable to be punished under sec.138 of N.I. Act.

7. The counsel for the accused argued that, the debt is not a legally enforceable debt and also argued that, the borrowed amount had already repaid and

complainant refused to returned back the blank cheque which is issued to him as a security. Hence, prayed to dismiss the complaint.

V. APPRECIATION OF EVIDENCE AND FACTS

8. Before going in to the facts of the case, let us consider the ingredients to prove the case under sec.138 of Cr.P.C. **“In Kusum Ingots & alloys Ltd. Vs. Pennar Peterson Securities Ltd, (2000) 2 SCC 745”**, the Hon’ble apex court explained the ingredients of the offence under section 138 N.I Act as under:

9. “On a reading of the provisions of section 138 of the NI Act it is clear that the ingredients which are to be satisfied for making out a case under the provision are:

i. A person must have drawn a cheque on an account maintained by him in a bank for payment of a certain amount of money to another person from out of that account for the discharge of any debt or other liability.

ii. That cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier.

iii. That cheque is returned by the bank unpaid, either because the amount of money standing to the credit of the account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with the bank;

iv. The payee or the holder in due course of the cheque makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, within 15 days of the receipt of information by him from the bank regarding the return of the cheque as unpaid;

v. The drawer of such cheque fails to make payment of the said amount of money to the payee or the holder in due course of the cheque within 15 days of the receipt of the said notice;" case law initial burden.

10. It is a well settled legal position that the presumption U/s.118 and 139 N.I.Act is in favour of the holder of cheque. And it is a rebuttable presumption and the burden lies on the accused to prove that he had no liability or debt upon the accused on the date of issue of the cheque.Presumptions U/s. 118 and 139 of N.I.Act are rebuttable presumptions. The pre-condition to claim the statutory presumption is to prove the execution of instrument.

11. Here in case in hand the existence of liability is proved since the execution of cheque by the accused for the debt it is very well proved on the side of complainant through his evidence and documents corroborating the transactions and the execution of cheque. Further, the evidence given by the complainant who is examined as PW1 and co-related to the transactions and hence the presumption is drawn in favour of complainant and now, it is the duty of the accused to rebut the presumptions drawn from the complainant side.

12. **Bir singh vs Mukesh kumar, (2019) 4 Supreme Court Cases 197, it was held as follows:**“Section 139 mandates that unless the contrary is proved, it is to be presumed that the holder of a cheque received the cheque of the nature referred to in section 138, for the discharge, in whole or in part, of any debt or other liability. However, the presumption is rebuttable by proving to the contrary. Section 139 introduces an exception to the general rule as to the burden of proof

and shifts the onus on the accused to prove by cogent evidence that there was no debt or liability. Mere denial or rebuttal by the accused was not enough.”

13. **“K.N. Beena, Appellant v. Muniyappan and another, AIR 2001 SC 2895”**. it was held that, in a complaint U/s.138 the court has to presume that the cheque had being issued for debt or liability, this presumption is rebuttable and however the burden of proving that a cheque had not been issued for a debt or liability is on the accused, denial/ averments in the reply by the accused are not sufficient to shift burden of proof on to the complainant, accused has to prove in trial by leading cogent evidence that there was no debt or liability.

14. In the case in hand, in order to rebutt the presumption, the defence taken by the accused, in the cross examination of PW1 is that, the cheque was issued to the complainant for security for timber business and the part amount was repaid to the both invoice. But in order to prove the above fact, the accused does not adduce any evidence nor examined the person namely Ashok as deposed in the cross examination to prove the part payment and to shift the initial burden. Though, as it is clear that, the accused had issued the cheque as a security purpose to discharge the debt in the business, but failed to prove that, the debt was not legally enforceable debt or part amount was repaid to the complainant, and Hence no evidence on side of accused to prove that, the debt is not the legally enforceable debt.

15. As aforesaid mere denial or any averments is not enough to rebut the presumption in favour of complainant. And there is no any evidence or documents to Rebut the presumption. Hence it cannot be concluded that, the accused has

rebutted the presumption arisen infavour of the complainant and hence, shifting of reverse burden on the complainant will not arise.

16. In the light of the aforesaid discussion this court comes to conclusion that Ex.P5 cheque was issue by the accused for discharging existing legally enforceable debt and on presentation, (collection) and same was returned as “Funds insufficient” As per Ex.P7. So Statutory notice was issued by the complainant As per Ex.P8, and accused does not repaid the amount and hence the complainant had proved the ingredients U/s.138 of the Negotiable Instruments act. Hence presumption was drawn infavour of complainant. The contention of the defence side not proved by probable evidence, except by the way of mere denial, nothing proved by the accused. Hence the defence side does not rebutt the presumption which is drawn infaour of complainant.

17. Having considered the entire evidence, documents and the submissions made by the counsels, this court comes to conclusion that the complainant had succesfully proved this case and hence it is concluded that the accused is found guilty for the offence U/s. 138 of NI Act.

V. DECISION

18. Therefore this court comes to conclusion that the accused is found guilty for the offence U/s. 138 of Negotiable Instruments act and this court does not thinks fit that, the order to release the accused on probation of good conduct after due admonition and on considering the facts and circumstances and nature of

offence this court is of opinion that the accused was not given benefit U/s. 360 of Cr.P.C.

19. In the result, A1 to A3 is found guilty for the offence U/s. 138 of Negotiable Instruments act and A1 to A3 is convicted under Section 248(2) Cr.P.C and A2, A3 is sentenced to undergo simple imprisonment for the period of One Year, and A2, A3 is directed to pay the fine of Rs.7,47,619/- (Cheque Amount) (Rupees Seven Lakhs and Forty seven thousand and Six hundred and nineteen only) as compensation under section 357 of Cr.P.C. to the complainant within two months, in default the A2, A3 shall undergo further period of two months simple imprisonment. The custody period if any already undergone by the A2, A3 shall be set off under Section 428 of Cr.P.C.

20. There is no any property remanded in this court and hence no order passed in respect of property.

21. Dictated to the Typist directly and typed by him, corrected and pronounced by me in open court this the 29th day of July 2026.

Judicial Magistrate No. II
Dindigul.

VI. Complainant side witnesses :

Sl. No.	Examined as	Name of Witness	Date of examination	Exhibits Marked
1.	PW1	Vengatesh S/o. Veerajeyamuni	20.06.2025	Ex.P1 to Ex.P10

VII. Complainant side Exhibits :

Sl. No.	Exhibits	Marked through	Date of Document	Description of document
1.	Ex.P1	PW1	01.01.2013	Partnership Deed (True Copy)
2.	Ex.P2	PW1	12.01.2007	Complainant's firm Registered Certificate
3.	Ex.P3	PW1	01.06.2018	Power of Attorney (Vengatesan)
4.	Ex.P4	PW1	30.12.2016	Invoice (Nos-3)
5.	Ex.P5	PW1	01.02.2018, 03.02.2018	Cheque(Original) (Nos.2)
6.	Ex.P6	PW1	03.04.2018	Collection Challan (Nos.2)
7.	Ex.P7	PW1	04.04.2018	Return memo (Nos.2)
8.	Ex.P8	PW1	13.04.2018	Advocate legal Notice
9.	Ex.P9	PW1	13.04.2018	Postal Notice Receipt (Nos.3)
10.	Ex.P10	PW1	27.04.2018 12.05.2018	AD Card (Nos.3)

VIII. Complainant side M.Os.- Nil**IX. Defence side witnesses, Exhibits, M.Os. : Nil.**

Judicial Magistrate No. II,
Dindigul

Note: 1. Since A2, A3 absent, Non Bailable Warrant issued against the A2, A3.