

**IN THE COURT OF THE SUBORDINATE JUDGE, KODUMUDI.**

**PRESENT : TMT.P. SRIDEVI.,L.L.M.,  
SUBORDINATE JUDGE, KODUMUDI.**

**FRIDAY, THE 27<sup>th</sup> DAY OF MARCH 2026**

**O.S.No.145/2024**

CNR.No.TNED22- 000317-2024

S. Arumugam @  
Arumugam Samiappa gounder ... Plaintiff

/Vs/

P.M. Chinnasamy ... Defendant

Final hearing before me in the presence of Advocate Thiru.K. Sivanandam for the plaintiff and in the presence of Advocate Thiru.S. Devarajan for the defendant and upon hearing both side arguments and upon perusing the pleadings and records and having stood over till this day for consideration this court delivered the following:

**JUDGMENT**

The suit is filed for recovery of money directing the defendant to pay a sum of Rs.3,65,167/- with subsequent interest at the rate of 15% per annum for Rs.3,50,000/- to the plaintiff from the date of suit till the date of realization and for costs.

**2. The brief averments of the plaint read as:-**

2.1. On 05.08.2021 the defendant has borrowed a sum of Rs.3,50,000/- from the plaintiff for the defendant family expenses and he received the said amount at the plaintiff's residence and also agreed to repay the same with interest at the rate of 12% per annum. The defendant has further promised to the plaintiff to repay the same on 05.10.2021. To discharge the said liability the defendant has issued a cheque in

favour of the plaintiff for Rs.3,50,000/- which is drawn on the Canara Bank, Nadupalayam Branch, dated 05.10.2021 bearing No. 001605.

2.2. The plaintiff presented the said cheque for collection on its due date through the equitas small finance bank Ltd., APT Road, Erode Branch and the same was returned on 06.10.2021 as funds insufficient. Without sufficient funds in the defendant account the defendant has issued the above said cheque. After dishonor of the said cheque the plaintiff approached the defendant and demanded to pay the dishonored cheque amount along with interest. The defendant has failed to pay the cheque amount along with interest to the plaintiff till today.

2.3. In spite of repeated demands made by the plaintiff to pay the above said cheque amount of Rs.3,50,000/- with interest to the plaintiff, the plaintiff failed to pay the cheque amount. On 11.10.2021 the plaintiff issued legal notice to defendant demanding the suit cheque amount. The defendant received the notice on 12.10.2021. After received said notice the defendant has failed to pay the said cheque amount or interest. Hence the suit is filed for recovery of money.

2.4. The defendant is doing tiles fittings works and he is having agriculture land out of the same he is getting income of Rs.40,000/- per month. Therefore the defendant is not entitled to the benefits of the Tamilnadu Debt Relief Acts and he is liable to pay the amount.

### **3. The brevity of the written statement filed by the defendant read as:-**

3.1. This defendant stated that he is owning properties in New R.S.No.259/2B of Punjai Kolanalli Village measuring 0.16.04 hectare. The plaintiff has purchased the properties by virtue of registered sale deed dated 10.02.2021. The said sale deed is registered as document No. 295 of 2021 on the file of Sub Registrar of Kodumudi. This defendant has purchased the properties along with one S. Arumugam. In the said

properties this defendant is entitled to a common 1/3 share and the said S. Arumugam is entitled to the remaining 2/3 share. This defendant has sold his 1/3 share to third party. Therefore the present suit is laid with ulterior motive. This defendant is not at all the owner of the properties scheduled in the petition. Therefore the plaintiff is not entitled to seek the relief of attachment of the properties before judgment. Further the said sale is well known to others. Therefore the present suit is clear abuse of process of law.

3.2. This defendant stated that he never borrowed any amount from the plaintiff at any point of time. He never issued the cheque in favour of the plaintiff. Therefore there is no liability on the part of this defendant. Even according to the plaintiff the cheque issued on 05.08.2021. The plaintiff has not produced any document to show the alleged payment of Rs.3,50,000/-. Further this defendant has no necessity to borrow such huge amount from the plaintiff. Further there is no liability on the part of this defendant. Under the circumstances the plaintiff must have forged the impugned cheque with ulterior motive and filed the suit.

3.3. This defendant stated the plaintiff to produce the bank pass book, income tax return for the assessment year 2020 -2021 and 2021- 2022 and the documents to show the possession of the immovable properties. Further this defendant is praying to direct the plaintiff to produce the document to show the alleged payment of Rs.3,50,000/- on 05.08.2021.

3.4. If any amount is transacted above Rs.20,000/- the same should be transacted only through instrument. Unfortunately the plaintiff has not produced any document to show the alleged payment. There is no liability on the part of this defendant and the plaintiff is not entitled to any amount or relief in the present suit. Consequently the plaintiff is not eligible to seek any relief in the present suit. Further this defendant is making enquiry about the particulars of the plaintiff who is stranger to this defendant in so far as the suit cheque.

3.5. There is absolutely no cause of action for the plaintiff to file the suit and the alleged one is also false. The plaintiff has not come forward with clean hands in presenting the suit against this defendant.

4. On the basis of above Pleadings the following issues were framed for consideration:-

**1. Whether the plaintiff is entitled for suit claim as prayed for?**

**2. To what other relief entitled for?**

5. On the side of the plaintiff, the plaintiff was examined as Pw1 and Ex.A1 to A5 were marked. On the side of the defendant, the defendant was examined as Dw1. Defendant side no exhibits marked.

## **6. Issues No. 1**

6.1. The present suit filed by the plaintiff seeking recovery of sum of Rs.3,65,167/- together with future interest based upon the cheque dated 05.10.2021 alleged to have been issued by defendant in favour of the plaintiff which was dishonoured on presentation.

6.2. The case of the plaintiff is that defendant borrowed sum of Rs.3,50,000/- for the said amount and agreed to repay the same with interest at the rate of 12 % per annum. Towards discharge of the legally enforceable debt the defendant issued a cheque dated 05.10.2021 for Rs.3,50,000/- drawn on Canara Bank, Nadupalayam Branch in favour of the plaintiff. The plaintiff presented the cheque for collection through Equitas small finance bank limited, Erode Branch and the same was returned unpaid on 06.10.2021 with an endorsement funds in sufficient.

6.3. On the other hand the defendant filed written statement denying the issuance of cheque in favour of plaintiff. According to the defendant the blank cheque containing signature of the defendant was taken away by the plaintiff from the

house of the defendant.

6.4. On side of the plaintiff he examined himself as Pw1 and Ex.A1 to Ex.A5 marked. Ex.A1 is the certified copy of the cheque dated 05.10.2021. To prove the case of the plaintiff he has filed the copy Judgment in C.C.No. 205/2022, dated 25.04.2024 in which the defendant was convicted for the dishonour suit cheque by the Fast Track Magistrate Court No. II, Erode and awarded compensation amount of Rs.3,50,000/- under Ex.A6.

6.5. The defendant has been examined as Dw1. In the cross examination he would depose that

தாக்கல் செய்யப்பட்டுள்ள வழக்கு காசோலையில் உள்ள கையொப்பம் மற்றும் காசோலை என்னுடையது என்றால் சரிதான். இந்த காசோலை சம்மந்தமாக வாதி ஏற்கனவே நீதித்துறை நடுவர் விரைவு நீதிமன்றம் எண். 2ல் சுருக்கு வழக்கு எண். 205/2022 என்ற வழக்கை என் மீது தாக்கல் செய்தார் என்றால் சரிதான்... என்னிடம் காட்டப்படுவது மேற்படி வழக்கின் தீர்ப்புரை இணைய நகல் என்றால் சரிதான். அந்த வழக்கில் அசல் காசோலை தாக்கல் செய்யப்பட்டுள்ளது என்றால் சரிதான். என்னிடம் காட்டப்படும் வா.சா.ஆ. 1 அசல் காசோலையின் நகல் என்றால் சரிதான். .அந்த தீர்ப்பை பொறுத்து மேல்முறையீடு செய்துள்ளேன். நான் மேல்முறையீட்டு நகல் எதுவும் நீதிமன்றத்தில் தாக்கல் செய்யவில்லை என்றால் சரிதான்.

6.6. Therefore, It is an admitted fact that the plaintiff initiated criminal proceedings under negotiable instruments Act 1881 and the defendant was convicted and the criminal court directed payment of compensation u/s. 357 of Criminal procedure code.

6.7. It is well settled that Criminal and civil proceedings are independent. There is no bar for maintaining a civil suit even after criminal conviction. However the crucial aspect is whether the compensation amount has been paid by the

defendant. The claim of the plaintiff is proved by way of documentary and oral evidence.

6.8. In the present case though the criminal court has ordered compensation there is no material to show that the amount has been paid. Therefore the civil liability still subsists and the plaintiff is entitled to a decree. In view of the above discussion the plaintiff is entitled for his claim as prayed for. Hence the issue No. 1 is answered in affirmative in favour of the plaintiff.

### **7. Issue No. 2**

The plaintiff is not entitled to any other claim.

In the result, the suit is decreed, with cost and the defendants are directed to pay the suit claim of Rs.3,65,167/- with interest at the rate of 9% from till the date of decree and thereafter at the rate of 6% per annum till realization of the decree amount.

Judgment directly dictated to the Steno-Typist, typed by her in computer and taken print out and after rectification of mistake, Pronounced by me in open court on this 27<sup>th</sup> day of March 2026.

Subordinate Judge,  
Kodumudi.

### **ENCLOSURE:**

#### **Plaintiff side witnesses:**

PW1 - Arumugam (Plaintiff)

**Plaintiff side Exhibits:**

<b>S.No.</b>	<b>Exhibits No.</b>	<b>Date</b>	<b>Particulars</b>	<b>Nature of documents</b>
1	Ex.A1	05.10.2021	The cheque No. 001605 drawn on the Canara Bank, Nadupalayam branch.	Certified copy
2	Ex.A2	06.10.2021	Return memo	Certified copy
3	Ex.A3	11.10.2021	Legal notice	Office copy
4	Ex.A4	12.10.2021	Acknowledgment card	Certified copy
5	Ex.A5	18.10.2021	Reply notice	Certified copy
6.	Ex.A6	25.02.2024	Judgment in C.C.No.205/2022	Online copy

**Defendant side witnesses**

Dw1 – Chinnasamy (Defendant)

**List of exhibits on the side of the Defendant :**

Nil

Subordinate Judge,  
Kodumudi.