

**IN THE COURT OF THE FAST TRACK COURT  
(MAGISTERIAL LEVEL) ERANIEL**

**Present : T.NARENDRAKUMAR, B.A., LLM.,PGDFL.,**  
Tuesday 09<sup>th</sup> day of June 2026

**Summary Trial Case No.15/2023**

**CASE SUMMARY**

| <b>Statement as per Rule 106 of the Criminal Rules of Practice, 2019</b> |                                                                       |                                                                                                                                      |
|--------------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| 1                                                                        | Case Number                                                           | <b>Summary Trial Case (S.T.C.) No. 15/2023</b>                                                                                       |
| 2                                                                        | Name of the complainant                                               | France Vincy Jeba (age38),<br>D/o.Climant,<br>46-13, 270 Mettutheru,<br>Kizha Asaripallam,<br>kanyakumari District. .... Complainant |
| 3                                                                        | Name of the Accused person                                            | P.Jayamalarvizhi                                                                                                                     |
| 4                                                                        | Father's/Husband's Name                                               | wife of Johnson                                                                                                                      |
| 5                                                                        | Occupation                                                            | --                                                                                                                                   |
| 6                                                                        | Residence of the Accused                                              | 15/1, Eattavathu Anthiyam,<br>Puthoor, Mandaikadu Post,<br>Kanyakumari District.                                                     |
| 7                                                                        | Age and Gender                                                        | 40, Female                                                                                                                           |
| 8                                                                        | Date of Occurrence                                                    | --                                                                                                                                   |
| 9                                                                        | Date of Information to the Police                                     | --                                                                                                                                   |
| 10                                                                       | Apprehension                                                          | --                                                                                                                                   |
| 11                                                                       | Release on Bail                                                       | --                                                                                                                                   |
| 12                                                                       | Period of remand of the accused                                       | --                                                                                                                                   |
| 13                                                                       | The date of filing of complaint/final report in the Court             | 26.05.2023                                                                                                                           |
| 14                                                                       | The date of committal of the case to the Court of Sessions            | Nil                                                                                                                                  |
| 15                                                                       | The Date of Questioning of the accused u/s 281 of Cr.P.C              | 15.12.2023                                                                                                                           |
| 16.                                                                      | Commencement of Trial (the date on which the documents u/s 207 of the | 26.05.2023                                                                                                                           |

|    |                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                   |                   |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------|
|    | Cr.P.C are furnished to the accused                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                   |                   |
| 17 | Date of examination in Chief and Cross examination of a witness                                                                                                                        | Witness                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Chief Examination | Cross Examination |
|    |                                                                                                                                                                                        | P.W.1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 26.05.2023        | 16.05.2025        |
| 18 | Date of examination of the accused under section 313(1) (b) of Cr.P.Ct                                                                                                                 | 26.04.2024                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                   |                   |
| 19 | Closure of Trial                                                                                                                                                                       | 05.06.2026                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                   |                   |
| 20 | Details of abscondence of an accused and his appearance/production, as the case may be                                                                                                 | Warrant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Abscondence       | Appearance        |
|    |                                                                                                                                                                                        | Bailable Warrant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 26.06.2023        | 30.11.2023        |
| 21 | Grant of stay by superior Courts and results thereof                                                                                                                                   | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                   |                   |
| 22 | Sentence or Order                                                                                                                                                                      | <b>In result,</b> The accused <b>JeyaMalarvizhi, W/o. Johnson</b> found guilty and convicted for the offence under section 138 Negotiable Instrument Act and sentenced to undergone simple imprisonment for a period of THREE MONTHS ( 03 Months) and accused is directed to pay a sum of Rs.20,00,000/- (Rupees Twenty lakhs only) as compensation under Section 357(3) Cr.P.C to the complainant within two months (02 months) from this date, in default the accused is directed to undergo Two months Simple Imprisonment. |                   |                   |
| 23 | Service of copy of judgment of findings on accused                                                                                                                                     | Copy of the judgment will be uploaded in CIS and made available for viewing in eCourts Services Portal.                                                                                                                                                                                                                                                                                                                                                                                                                        |                   |                   |
| 24 | Explanation of delay                                                                                                                                                                   | Delay caused due to the Parties                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                   |                   |
| 25 | Details of victim compensation ordered                                                                                                                                                 | NIL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                   |                   |
| 26 | Filing of all miscellaneous petitions and their result including the results on challenge before superior Court. Except routine petitions like petition under section 317 of the Code. | Petition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Crl.M.P.No.       | Result            |
|    |                                                                                                                                                                                        | --                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | --                | --                |
|    |                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                   |                   |
|    |                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                   |                   |

France Vincy Jeba (age38),  
D/o.Climant,  
46-13, 270 Mettutheru,  
Kizha Asaripallam,  
Kanyakumari District.

..... Complainant

/Versus/

P.Jayamalarvizhi,(aged 40)  
W/o.Johnson,  
15/1, Eattavathu Anthiyam,  
Puthoor, Mandaikadu Post,  
Kanyakumari District.

..... Accused

This case was taken on file on 26.05.2023 and coming before me for final hearing on 04.05.2026 in the presence of Thiru.A.Anittas Vijin., Advocate for the complainant and of Thiru.J.Tamilselvan and Ajilkumar., Advocate for the accused, and upon hearing the both side arguments, after perusing the available case records and having stood over for consideration till this day, this court delivered the following.

### **JUDGEMENT**

This complaint was filed by the complainant against the accused under Sections 138 and 142 of Negotiable Instruments Act 1881. (Herein after The Negotiable Instruments Act 1881 mentioned as N.I Act and The Code of Criminal Procedure herein after mentioned as Cr.P.C.).

#### **1. The gist of the complaint as follows: -**

The complainant and the accused were working as temporary Clerks at Indian Overseas Bank, Manavalakurichi Branch. The case of the complainant is that, during the period between 2019 and 2021, the accused borrowed various sums of money from her, in total Rs.15,12,000/- (Rupees Fifteen Lakhs Twelve Thousand only), purportedly for the purpose of constructing her house and the complainant advanced the said amount from her personal savings and also funds from pledging her jewels.

2. The complainant further states that, in the year 2021, one Jonshon of Puthur raised allegations against the accused regarding misappropriation of cash paid towards his loan account. Upon knowledge of the said allegations, the complainant claims to have demanded repayment of the amount borrowed by the accused. However, the accused did not repay the amount and continued to seek time for repayment.

3. So, the complainant informed the accused that, in the event of non-payment of amount within six months, she would be constrained to initiate legal proceedings. Thereafter, on 29.08.2022, the accused and her husband came to the residence of the complainant and agreed to repay the borrowed amount within four months. In discharge of the liability, the accused had issued a post-dated cheque bearing No. 352992, drawn on State Bank of India, Manavalakurichi Branch, dated 29.12.2022, in favour of the complainant.

4. On the assurance of the accused, on 30.12.2022 when the complainant presented the cheque for collection through her banker Indian Overseas Bank, Manavalakurichi Branch and the same was returned to the complainant on 31.12.2022 with the reason “REFER TO DRAWER”. Thereafter the complainant approached the accused to repay the said amount, at the time the accused said to represent the cheque after 10 days. So, based on assurance of the accused, the complainant again on 18.01.2023 presented the cheque for collection through her banker Indian Overseas Bank, Manavalakurichi Branch and the same was returned to the complainant on 19.01.2023 with the reason “REFER TO DRAWER”.

5. Thereafter on 27.01.2023 the complainant issued a statutory notice to the accused but the said notice was returned as “Unclaimed RTS” on 05.02.2023, and the accused not settled the cheque amount. Hence, the complainant filed this complaint under section 138 & 142 of Negotiable Instrument Act 1881 r/w section 200 of Cr.P.C against the accused.

6. On receipt of the complaint, sworn statement was recorded as prima facie case made out, cognizance was taken and summons was sent to the accused. The copies under Section 204(2) of Cr.P.C. were furnished to the accused. When, the substance of accusation was explained to the accused under Section 251 of Cr.P.C, and she has understood the same and denied it and asked this Court claims to be tried

7. **The evidence of complainant is as follows:-**

The complainant was examined as PW1 and Ex.P1 to Ex.P5 were marked. Cheque bearing No. 352992 Dated: 29.12.2022 drawn on State Bank of India, Manavalakurichi branch, for Rs.15,12,000 (Rupees Fifteen Lakhs Twelve Thousand only) is marked as Ex.P1; Return Memo dated 31.12.2022 is marked as Ex.P.2; Ex.P3 is the Office Copy of the statutory notice dated 27.01.2023; Returned Postal Cover along with statutory notice is marked as Ex.P4; Return Memo dated 19.01.2023 is marked as Ex.P.5 respectively.

8. The evidence of complainant side was closed with P.W.1 and Ex.P.1 to Ex.P5 were marked. When, the incriminating circumstances were explained to the accused under Section 313(1) (b) of Cr.P.C., the accused denied the same as false evidence. Further said that, evidences available on her side.

9. **Evidence of the Defence:**

On the side of the defence not witnesses and no documents is marked.

10. **Point for determination is:**

**Whether the cheque was issued by the accused towards the discharge of a legally enforceable debt or liability and same being dishonored and the accused committed the offence under section 138 of N.I. Act?**

Heard Both side and perused records carefully.

11. In the case on hand Ex.P.1 is Cheque, dated 29.12.2022 was presented before the bank for encashment and returned on 19.01.2023 as per return memo is

Ex.P5 and as per Ex.P3 the legal notice was sent on 27.01.2023. Thus, it is clear that the disputed cheque is presented within 3 months from the date on which it was drawn and further legal notice was sent within 30 days of receipt of the return of cheque.

**12.** It is also not in dispute that, the cheque in question i.e. Ex.P.1 to belongs to the account of the accused. It is also not in dispute by the accused that, the cheque in question presented for encashment and dishonored for the reason of “REFER TO DRAWER”, proved by return memo dated: 19.01.2023 i.e. Ex.P5 and issued by the concerned bank, therefore it is a matter on record and has been proved that, the cheque in question was presented within its validity period and dishonored as per the bank endorsement issued by the banker. It is also not in dispute that, after dishonor of the cheque in dispute and receipt of bank memo within 30 days from the date of receipt of bank memo, a legal notice was sent as per Ex.P3 to the accused called upon her to pay amount covered under the dishonored cheque but the said notice is returned as Unclaimed. Hence, the complainant has complied the mandatory requirements as required U/s.138 (a) to (c) of Negotiable Instruments Act.

**13.** Therefore, the statutory presumptions under Sections 118(a) and 139 of the N.I Act are in favour of the complainant. It is settled law that, in a proceeding under Section 138 N.I Act, once the accused’s signature on the cheque is admitted or proved, the presumption arises that the cheque was issued for legally enforceable debt or liability. Then the burden shifts to the accused to rebut the presumption on a balance of probabilities. So, the complainant can avail the benefit of presumption under Sections 118 and 139 of the N.I Act in his favour in view of the decision of Hon’ble Apex Court in **Kalaimani Tex and another -Vs- P. Balasubramanian reported in (2021) 5 Supreme Court Cases 283**. Hence, now the burden is on the accused to rebut the statutory presumptions and also establish her defence.

**14.** In the case of **Basalingappa Vs. Mudibasappa (2019 AIR SC 1983)** it was held that "The Presumption under section 139 is a rebuttable presumption and the onus is on the accused to raise the probable defence. The standard of proof for rebutting the presumption is that of preponderance of probability."

**15.** Now it is for the accused to rebut such presumptions to the contrary and to disprove the presumption, it need not always be conclusively established, it is sufficient, if it is so probable that a prudent person would believe it. In **Rangappa -Vs- Sri Mohan, [(2010) 11 SCC 441: 2010 AIR SC 1898]** the Hon'ble Supreme Court held that "When an accused has to rebut the presumption under section 139 of the N.I. Act, the standard of proof for doing so is that of "Preponderance of Probabilities". Thus, the accused can discharge this burden by establishing his case on the basis of the preponderance of probabilities.

**16.** On the point of rebuttal of presumptions by the accused, the Hon'ble Supreme Court in the case **M/s. Laxmi Dyechem v. State of Gujarat and Others, (2013 CrI.L.J. 3288)** observed that "Therefore, if the accused is able to establish a probable defence which creates doubt about the existence of a legally enforceable debt or liability, the prosecution can fail. The accused can rely on the materials submitted by the complainant in order to raise such defence and it is inconceivable that in some cases the accused may not need to adduce the evidence of his/her own." Hence, it is well settled that, the said presumption raised under section 118 and 139 of N.I Act is rebuttable in nature, the accused need not get into the witness box in all circumstances and he can rely upon the materials supplied by the complainant side to rebut the said presumption. The standard of proof expected on the defence side is based on the rule of the preponderance of probability, but not on the rule of beyond all reasonable doubts. So, in a cheque dishonour case, the accused can very well rebut the presumptions raised against them.

**17. So, Now let us peruse the material on record to analyze whether the accused has raised a defence by preponderance of probability to rebut the presumption available under Section 139 NI Act in favour of the complainant.**

The defence of the accused is that she had not borrowed any amount from the complainant as alleged. According to the accused, the complainant was engaged in the lending money business on interest and in the course of such transactions, the accused acted as an intermediary in arranging borrowers for the complainant. So the accused had given this case cheque Ex.P1 as a security towards such dealings and not towards discharge of any legally enforceable debt or liability. But due to certain misunderstandings arose between her and the complainant, She misused the said cheque and filed this present false case against her

**18.** In this regard this court analyzed the evidences and documents as follows: But this court found that, the accused not produced any evidence and documents to support her claim. Though the accused has taken above plea of defence, But the accused not produced any piece of evidence in order prove her defence.

**19.** However, the learned defence counsel raised various contentions, namely that the complainant had not stated the exact date on which the accused had received the money and not produced transaction records to establish that she had advanced the amount to the accused. Further the complainant failed to prove her source of income and financial ability to advance the alleged loan amount.

**20.** In this regard, this Court is of the opinion that the aforesaid contentions raised by the defence side are not sufficient to discredit the case of the complainant. Because in Cheque dishonoured cases, even though the complainant not produced any documents to prove the source of fund, or loan transactions, it will not affect her case unless the same as established in Accused's reply notice. But in the case the accused not issued reply notice, but raised various contentions in their



arguments. So mere taking defence on failure to production of source of fund and loan transactions documents is not a ground to dismiss the case of the complainant.

**21.** Further merely pointing out certain inconsistencies or shortcomings in the testimony of the complainant would not, by itself, be sufficient to come to the aid of the accused so as to rebut the statutory presumption envisaged under Sections 118(a) and 139 of the Negotiable Instruments Act.

**22.** Further it is for the accused to prove her defence by leading cogent evidence, in which the accused has completely failed to prove her defence. Though for rebutting presumptions under section 139 of the N.I Act, the accused can rely upon the material submitted by the complainant and also on the testimony of the complainant but merely resting its case upon the shortcomings of the complainant would not alone come to the aid and rescue of the accused. The accused throughout the trial except denial at the time of substance of accusation and in her statement under section 313(1)(b) of the Code of Criminal Procedure (Cr.P.C), she has not led any cogent evidence whatsoever to corroborate her stand.

**23.** Once the presumption is in favour of the complainant, then the accused has to rebut the same, then only the burden will shift on the complainant and then only the complainant has to prove the other aspects. However, the accused has failed to prove her defence, hence thereby failed to rebut statutory presumption under Sec.139 of N.I. Act in favour of the complainant by way of preponderance of probabilities. hence, shifting of reverse burden on the complainant will not arise.

**24.** Hence, presumption was drawn in favour of the complainant as afore mentioned that the cheque was issued only towards discharge of a legally enforceable debt or liability. The defence side has not rebutted the presumption by preponderance of probability which is the standard of proof for the accused. Hence this court came to a conclusion that the accused has failed to rebut the presumption

under Section 139 of the NI Act with the probable evidence and thereby this court find the accused is found guilty of the offence under section 138 of N.I. Act.

**25. RESULT:**

**In result,** The accused namely **JeyaMalarvizhi, W/o. Johnson** **found guilty** for the offence under section 138 Negotiable Instrument Act and convicted as per Section 248(2) Cr.P.C.

**26. QUESTION OF SENTENCE :-**

The accused was questioned with regard to the sentence and fine to be imposed on her for the above said offence for which the accused reply as follows:

" நான் முதலில் கொஞ்ச பணம் புகார்தாரரிடம் வாங்கியிருந்தேன். அதனை நான் திரும்பக் கொடுத்துவிட்டேன். காசோலையில் நிரப்பப்பட்டுள்ள தொகையை நான் கொடுக்க கடமைப்பட்டவள் இல்லை. இது பொய்வழக்கு "

**27. SENTENCE :-**

The accused **Jeya Malarvizhi, W/o. Johnson** **found guilty and convicted** for the offence under section 138 Negotiable Instrument Act and sentenced to undergone **simple imprisonment** for a period of **THREE MONTHS ( 03 Months)** and accused is directed to pay a sum of **Rs.20,00,000/- (Rupees Twenty lakhs only)** as compensation under Section 357(3) Cr.P.C to the complainant within **two months (02 months)** from this date, in default the accused is directed to undergo **Two months Simple Imprisonment.**

Dictated by me to the steno-typist and typed by her in computer directly and corrected by me and pronounced by me in open court, on 09<sup>th</sup> day of June 2026.

Judicial Magistrate,  
Fast Track Court, Eraniel.

**Complainant side Witnesses:-**

|        |                       |            |                |             |
|--------|-----------------------|------------|----------------|-------------|
| P.W.1. | Mrs.France Vincy Jeba | 26.05.2023 | Ex.P1 to Ex.P5 | Complainant |
|--------|-----------------------|------------|----------------|-------------|

**Complainant side documents :**

|               |            |                                        |
|---------------|------------|----------------------------------------|
| Ex.P1 /P.W.1  | 29.12.2022 | Original Cheque bearing No. 352992,    |
| Ex.P.2 /P.W.1 | 31.12.2022 | Original Return memo                   |
| Ex.P.3 /P.W.1 | 27.01.2023 | Office copy of Legal Notice            |
| Ex.P.4 /P.W.1 | --         | Original Returned Acknowledgement card |
| Ex.P.5 /P.W.1 | 19.01.2023 | Original Return memo                   |

**Defence side witnesses and documents :-** Nil

Judicial Magistrate,  
Fast Track Court, Eraniel.

Judicial Magistrate, Fast Track  
Court, Eraniel  
Court Seal.

*“ The parties shall apply, as soon as possible, for the return of all exhibits which they may wish to preserve, as the record will be liable to be destroyed after three years from this date”.*

**Note:**

*Copy of the Judgment given to the accused free of cost*

**The Hon'ble High Court of Madras in Roc.No. 121910-A/2024/F1,**

**Dated:06.05.2025**

**Cover Sheet Annexed to Judgment / Order**

|     |                                                                                                    |   |                                                                                              |
|-----|----------------------------------------------------------------------------------------------------|---|----------------------------------------------------------------------------------------------|
| 1.  | Name of the Court                                                                                  | : | Judicial Magistrate, Fast Track Court, Eraniel.                                              |
| 2.  | Case Number                                                                                        | : | S.T.C.No. 15/2023                                                                            |
| 3.  | Date of Judgment of Conviction / Dismissal / Reversal of Acquittal / Dismissal of Bail Application |   | 09.06.2026<br>Conviction                                                                     |
| 4.  | Name of Person Convicted / Acquittal Reversed / Bail Denied / Bail Cancelled                       |   | Jaya Malarvizhi, W/o. Johnson                                                                |
| 5.  | Contact Address of Legal Aid Committee of Court Complex in which the above Court is situated.      |   | The Hon'ble Chairman,<br>Taluk Legal Services Committee,<br>Court Campus, Eraniel.           |
| 5a. | Designation of the person to be contacted                                                          |   | Tr.R.Karlmarx, B.L.,<br>The Hon'ble Chairman,<br>Taluk Legal Services Committee,<br>Eraniel. |
| 6.  | Phone No. of above Legal Aid Committee (between am to pm)                                          |   | 04651-220227<br>(10.00 am to 05.45 pm)                                                       |
| 7.  | Alternative Mobile No. of Legal Aid Committee                                                      |   | Tmt. S. Shareen Banu<br>Junior Administrative Assistant<br>9952716394                        |

Judicial Magistrate,  
Fast Track Court, Eraniel.