

IN THE COURT OF THE DISTRICT AND SESSIONS JUDGE, KARUR

PRESENT:- THIRU K.H.ELAVAZHAGAN, B.Sc., M.L.,

DISTRICT AND SESSIONS JUDGE.

Wednesday, the 01st day of April 2026

CRIMINAL APPEAL NO. 72/2025

From what court this appeal is preferred	:	Fast Track Court Judicial Magistrate (At Magistrate Level), Karur.
Number of the case in that court	:	S.T.C. No.552/2020
Name and Description of the appellant	:	J. Balasubramanian, S/o. Jeyachandhran, No.8/98, Unjalur, Erode to Karur Main Road, Kodumudi Taluk, Erode District.
Name of the Complainant	:	K. Periyasamy, S/o. Kandasamy, No.21, Moonuttupalayam, Vettamangalam West Village, Pugalur Taluk, Karur District.
The sentence and law under which it was imposed in the lower court	:	The accused Convicted and sentenced to undergo one year simple imprisonment and to pay the cheque amount of Rs.5,00,000/- as compensation to the complainant within a period of one month under section 357 (3) of Cr.PC. in IDSI for 1 month for the offence u/s. 138 NI Act.
Whether confirmed, modified or reversed and if modified modification	:	In the result, the criminal appeal is dismissed and the judgment of conviction and sentence passed by the Judicial Magistrate, Fast Track

		Court @ Magisterial Level, Karur in S.T.C.No.552/2020 dated 14.02.2025 is confirmed. The learned Judicial Magistrate is directed to secure the accused and to proceed in accordance with law.
Date of filing	:	03.03.2025
Date of notice issued by that court to appear	:	14.03.2025
Date of bail bond if the appellant has been let out on bail	:	---
Date of the appellant ordered to appear	:	07.04.2025
Date of hearing	:	18.03.2026
Date of judgment / order	:	01.04.2026

This criminal appeal is coming on 18.03.2026 for final hearing before me in the presence of Thiru. T. Ravikumar, Advocate for the appellant/accused and of Thiru. M. Thanganathan, Advocate for the Respondent/Complainant and on hearing the arguments of both sides and upon perusing the judgment of the trial court and the case records and having stood over till this day for consideration, this court delivered the following:-

JUDGMENT

The Criminal Appeal is filed u/s. 374(3) Cr.P.C against the judgment of conviction and sentence passed by the Fast Track Court Judicial Magistrate (At Magistrate Level), Karur in S.T.C. No.552/2020 dated 14.02.2025 and to set aside the same.

2. The case was registered against the accused u/s.138 N.I. Act and after trial the learned Fast Track Court Judicial Magistrate (At Magistrate Level), Karur in S.T..C. No.552/2020 dated 14.02.2025 is found guilty u/s.138 N.I. Act, Convicted and sentenced to undergo one year simple imprisonment and to pay the cheque amount of Rs.5,00,000/- as compensation to the complainant within a period of one month under

section 357 (3) of Cr.PC. in IDSI for 1 month for the offence u/s. 138 NI Act.

3. The complainant states that the accused is a well known person to him. Further, on 22.12.2019 the accused borrowed a sum of Rs.5,00,000/- for his urgent business needs and family expenses and agreed to repay the same on demand with interest at the rate of Rs.1.50/- per hundred per month. Thereafter, the accused did not pay either principal or interest. After several demands, on 29.08.2020, the accused has issued cheque bearing No.433789 dated 03.09.2020 for Rs.5,00,000/- in favour of Indian Overseas Bank, Noyyal Branch in favour complainant. As per request of the accused, on 05.09.2020 the complainant presented the cheque branch for collection through his banker Karur Vysya Bank, Karur Branch and the same was returned by the return memo dated 07.09.2020 with an endorsement "Funds insufficient". After that, the complainant issued a registered legal notice dated 10.09.2020 by demanding the amount due under the cheque within 15 days from the receipt of the notice. The legal notice was received by accused on 16.09.2020 and after receiving notice the accused has not come forward to repay the cheque amount. Further, the accused did not pay the cheque amount. The accused had issued said cheque wantonly and dishonestly and it was dishonored. Hence the complaint has filed by the complainant punishable under section 138 of N.I. Act.

4. The complainant was taken cognizance, in S.T.C. No.552/2020 and during trial, complainant examined witnesses PW1 and PW2 marked documents Ex.P.1 to Ex.P5 and on the side of the accused, DW1 was examined and documents Ex.D 1 to Ex.D6 were marked. On consideration of evidence and documents, and other materials on record, the learned trial Magistrate arrived conclusion that, Convicted and sentenced to undergo one year simple imprisonment and to pay the cheque amount of Rs.5,00,000/- as compensation to the complainant within a period of one month under section 357 (3) of Cr.PC. in IDSI for 1 month for the offence u/s. 138 NI Act.

5. Having been aggrieved against the judgment of conviction and sentence, passed by the learned Fast Track Court Judicial Magistrate (At Magistrate Level), Karur in S.T.C. No.552/2020 dated 14.02.2020 the accused preferred this appeal on

the following grounds:

i. The trial court has convicted and sentence passed by the trial court is against law, weight of evidence and probabilities of the case.

ii. The trial court has failed to consider the intrinsic merits of the evidence in proper perspective.

iii. The findings of the trial court that the respondent/complainant has proved the initial burden of proof on his side is highly erroneous.

iv. The findings of the trial court that the accused has failed to adduce the cogent and coherent evidence to rebut the presumption under section 139 of NI Act is highly erroneous.

v. The findings of the trial court that it is revealed from the perusal of the records that the accused received Ex.P4 legal notice dated 10.09.2020 as evidenced by Ex.P5 acknowledgment card and admittedly and the accused did not send any reply notice and during questioning, the accused did not set out his defense but only stated that he did not issue the cheque is highly erroneous.

vi. The findings of the trial court that PW1 deposed that the accused was working in the petrol bunk at the time borrowal and denied the suggestion that the accused left the job in 2017 and working as archakar in a temple and since there is no favourable circumstances elicited in the examination of PW1 to show that he got any connection with V.P. Mani is highly erroneous.

vii. The findings of the trial court that the accused exhibited Ex.D4 and Ex.D5 statement of accounts of the Petrol Bunk and the perusal of the same would reveal that there were various transactions on various dates made by the accused and payments made to HPCL company and but there is no evidence to show that the accused has borrowed the amount on 04.09.2017 and the evidence of the accused do not show that the accused borrowed any amount on 04.09.2017 for which he alleged by gave signed unfilled pronotes and cheque is highly erroneous.

viii. The findings of the trial court that it is contention of the accused that it was his employer and who instructed him to approach V.P. Mani and borrow Rs.5,00,000/- and there is no record to show that there was an understanding between Ramasamy and the accused regarding management of the petrol bunk and asking the accused to issue his own cheques for the purpose of the petrol bunk and while the accused deposed that it was usual practice to borrow from other on behalf of his employer and there is no evidence to show that the accused got back his documents after repayment by Ramasamy on any of the occasions is highly erroneous.

ix. The findings of the trial court that it is significant to point out that the accused did not even depose as to how the loan amounts were repaid by Ramasamy and there is nothing in the statement of account regarding the same and in the absence of any evidence as to understanding between Ramasamy and the accused regarding borrowal.

x. The findings of the trial court that the accused did not produce a singly document from the period 2018 to authoritatively show that he was attached to the temple from the period and its is also pertinent to point out that the accused did not take any step to produce the account statement is highly erroneous.

xi. The findings of the trial court that the accused further contended that the complainant failed to prove the passing of consideration and admittedly and the accused did not dispute the signature in Ex.P1 and therefore the contention of the accused regarding passing of consideration cannot be sustained is highly erroneous.

xii. The findings of the trial court that the accused claimed that he left the job at petrol bunk in 2017 and joined as archakar in 2018 and he did not explain as to why he did not take any action regarding the cheques and promotes given to V.P. Mani is highly erroneous.

xiii. The findings of the trial court that in the factual circumstances, as pointed out supra and when the accused received the legal notice, he ought to have sent reply notice setting out his defence in the case and there is absolutely no plausible explanation for non-issuance of reply notice is highly erroneous.

xiv. The findings of the trial court that the accused did not demonstrate from the evidence available on record as to how his cheque came into the hands of the complainant.

xv. The trial court has failed to consider the fact that the respondent/complainant failed to prove the fact relating to relationship between the appellant/accused and respondent/complainant and the contradictory evidence given by PW1 and PW2 in respect of the above said particulars of appellant/accused.

xvi. The trial court has failed to consider the fact that the respondent/complainant failed to prove the execution and passing of consideration of alleged pronote and the contradictory evidence given by PW1 and PW2.

xvii. The trial court has failed to consider the fact that the appellant/accused clearly prove the fact that the appellant/accused never working in the petrol bunk and met the respondent/complainant PW1 and PW2 and asked alleged loan through Ex.D2 and also the admitting evidence given by PW1 and PW2 and the appellant/accused clearly established fact that he has been working as Archagar by way of adduced evidence and documents.

xviii. The trial court has failed to consider the fact that the appellant/accused clearly proved the fact that the alleged pronote and cheque in question are fabricated by one V.P. Mani and he has filed this complaint in the name of the respondent/complainant through evidence and the Ex.D6.

xix. The trial court has failed to consider the fact that the respondent/complainant failed to prove that he has sufficient source to lend the

alleged loan to the appellant/accused and also he has wherewithal to lend the loan.

xx. The trial court has failed to consider the appellant/accused probabilizw his defence and thereby reputed the presumption under 139 of NI Act and also discharged his reverse burden to prove his case and shifted to the respondent/complainant. The trial court has failed to consider the evidence adduced by the respondent/complainant and also the contradictory evidence given by the PW1 and PW2 and the testimony of documents produced on the side of the appellant/accused and wrongly came to the conclusion that the appellant/accused is guilt of offence under section 138 of NI Act. The trial court has ought to have acquit the appellant/accused instead of convict him.

6. On 04.03.2026, the appellant/accused has filed the written arguments on the line of the grounds. Further, the counsel for the appellant/accused has cited the following judgment of the Honourable High Court of Madras in 2017(2) MWN (Cr.) DCC 15 (Mad.) in CrI.A. No.22/2016 dated 22.03.2017 and the Honourable High Court of Madras in 2018(3) MWN (Cr.) DCC 186 (Mad.) in CrI.A. No.795/2016 dated 21.02.2018. Hence, he prays to allow this case.

7. On 18.03.2026, the respondent/complainant has filed the written arguments stating about the admission of the signature and statutory presumption, fatal failure to reply to the statutory notice, the V.P. Mani and Petrol Bunk defense is highly improbable, the delayed and fabricated police complaint, temple letter lacks of authenticity, complainant's witness withstood scrutiny and the citations relied upon the appellant are inapplicable. Hence, he prays to dismiss this case.

8. On consideration of the complaint, evidence and other materials on record, the point arise for determination is as follows:-

- 1 Whether the respondent/complainant fulfilled the statutory need for lodging the complaint against the accused as contemplated u/s 138 of N.I Act ?

- 2 Whether the appellant/accused has rebutted the presumption under 114 of Evidence Act and u/s 118 and u/s 139 of N.I. Act?
- 3 Whether the appellant has signed the cheque?
- 4 Whether the appeal can be allowed?

9. Answering for Point 1 :

The Section 138 N.I Act contemplates as follows:-

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

The Payee or the holder in due course of the cheque, as the case may be, 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 thirty days of the receipt of information by him from the bank regarding the return of the cheque as unpaid, and the drawer of such cheque failed to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

The following table goes to show the various dates from the date of issuance of cheque and till the date of complaint to prove the legal requirements as stated above.

Dt.of cheque	Dt.when presented for collection u/s 138 (a) of NI Act	Dt of returned memo and reason for returned cheque.	Dt. when issued legal notice to the accused	Dt.when the accused get receipt of notice and Reply notice to the complainant	Dt when the expiry of 15 days of receipt of notice as per Sec 138 (c) NI Act.	Dt when the cognizance of offence made u/s 142(b) of NI Act.

03.09.2020	05.09.2020	07.09.2020 Funds insufficient	10.09.2020	16.09.2020 No reply notice was issued by the accused.	01.10.2020	15.10.2020
------------	------------	-------------------------------------	------------	---	------------	------------

In this case on hand, the accused had given a post dated cheque bearing No.433789 drawn on Indian Overseas Bank, Noyyal branch for a sum of Rs.5,00,000/- in favour of the complainant to discharge the above said liability accused issued a post dated cheque to the complainant. The cheque was presented for collection by the complainant on 05.09.2020. It was returned as funds insufficient on 07.09.2020. Then he issued legal notice to the accused on 10.09.2020 to pay the amount within 15 days from the date of receipt of the notice and same was received by accused on 16.09.2020 and also no reply notice was issued by the appellant/accused. Then the Complainant had filed the present case on 15.10.2020. The statutory demand notice was given within 30 days, after expiry of 15 days from the date of receipt of notice, the present case was filed within 30 days. Therefore, the statutory need for lodging complaint against the accused is fulfilled by the complainant u/s.138 of NI Act. So, there is no legal infirmity in the present case. I answered to this Point No.1 accordingly.

1 Answering for Points 2 and 3

The appellant herein has filed the appeal against the judgment in STC 552/2020 dated 14.02.2025 on the file of the Fast Track Court Judicial Magistrate (At Magistrate Level), Karur.

For the convenience the parties nomenclature as used as before the trial court.

The complainant was examined as PW1 and PW2 marked documents Ex.P.1 to Ex.P5 and on the side of the accused, DW1 was examined and documents Ex.D 1 to Ex.D6 were marked.

The document Ex.P.1 goes to shows that original promissory note executed by the accused in favour of the complainant dated 22.12.2019. Ex.P2 goes to shows that the original cheque drawn on Indian Overseas Bank, Noyyal Branch, bearing registration no.433789 for sum of Rs.5,00,000/-. Ex.P3 goes to shows that return memorandum dated 07.09.2020. Ex.P4 goes to shows that the office copy of the statutory notice issued by the complainant dated 10.09.2020. Ex.P5 goes to shows that the acknowledgment card dated 16.09.2020. Furthermore, Section 139 of the Negotiable Instrument Act and Section 118 of the Evidence Act, goes that presumption is in favour of the holder in cheque.

Section 139 reads as follows:

139. Presumption in favour of holder:

It shall be presumed, unless the contrary is proved, 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, or any debt or other liability.

From the above, it is clear that it is presumed that unless contrary is proved the holder of a cheque received for the discharge of liability.

After going through the materials available on record, it is seen that it is not in dispute that Ex.P2 is the cheque leaf supplied by the bank to the appellant/accused in respect of the account he was maintaining with the banker, namely Indian Overseas Bank, Noyyal Branch. It is also not in dispute that the signature found therein is that of the appellant/accused. But, the appellant/accused has denied the contention of the respondent/complainant. Further, the contention of the accused is that he has issued the signed unfilled pronote and cheque to one Mani for the amount borrowed by the appellant/accused. Further, he has raised his contention that he has borrowed amount to one Mani on behalf of the employer Ramasamy for the purchaser of Petrol on 04.09.2017 and in the mean time, there arose a dispute between the said Ramasamy and the appellant/accused

and the said Ramasamy has refused to pay the amount which was borrowed from one Mani. Therefore, the said Mani has filed this case through the complainant and misused the pronote and cheques.

10. Furthermore, to support his contention the appellant/accused has not filed any valid documents. Further, he has received the Ex.P4 legal notice on 10.09.2020 and after receiving the legal notice he has not sent any reply to the respondent/complainant by denying the defence of the respondent/complainant. Even more, the appellant/accused has not raised any of his defence at the time of questioning under section 313(1)(b) of Cr.P.C., Even more, the appellant/accused has not lodge any complaint as against the said V.P. Mani regarding the misuse of his pronote and cheque. Hence, the appellant/accused has not purforth any materials to substantiate his defense.

The appellant/accused was examined as DW1 and marked documents Ex.D.1 to Ex.D6 .

The document Ex.D.1 goes to shows that Enquiry report. Ex.D.2 goes to shows that letter given by Dharmagartha of the temple. Ex.D.3 goes to shows that the Statement of Account of the accused dated 01.01.2017 to 31.12.2017. Ex.D.4 goes to shows that the statement of account of M/s.Karur District Noyyal Tractors Owners Welfare Transfer, Karur (A/c. No.083902000000183) dated 01.04.2016 to 26.02.2018. Ex.D.5 goes to shows that the statement of account of M/s.Karur District Noyyal Tractors Owners Welfare Transfer, Karur (A/c. No.083902000005830) dated 01.04.2016 to 31.03.2017.

11. DW1 in his evidence has deposed that he was worked as a Deputy Manager in the Petrol bunk of Ramasamy. Further, in his evidence he has stated that as per the instruction of the Ramasamy, on 04.09.2017, he has borrowed amount sum of Rs.5,00,000/- from the financier for the purchasing of petrol and diesel and for the same he has issued the unfilled four cheques and pronote as security.

12. Further, one of the contention raised by the appellant/accused is that as per the instruction of the Ramasamy, on 04.09.2017, he has borrowed amount sum of Rs.5,00,000/- from the financier for the purchasing of petrol and diesel. But, the appellant/accused has not placed any document or materials to substantiate the same. Hence, the contention raised by the appellant/accused is viewed as unbelievable.

13. Ex.D1 is a complaint which goes to shows that the complaint was given by the appellant/accused on 22.12.2020. Here, the Ex.D1 is viewed as afterthought since the he has lodged the complaint after the receipt of summons from the trial court and moreover, he has not come forward to lodge the complaint in the year 2018 till the date of filing this complaint. Therefore, the Ex.D1 is squarely viewed as afterthought.

14. Furthermore, the appellant/accused has stated that he was working as a Archakar in Kodumudi Temple since 2018 and to substantiate the same, he has produced Ex.D2 letter which was issued by the Dharmagartha, Kodumudi temple which goes to shows that letter dated 06.03.2024. Further, Ex.D2 which simply goes to shows that there is no bio or subject of the letter that about the authorized person who has issued the said letter which has no proper authenticity and hence the same was not supported the claim of the appellant/accused.

15. Further, Ex.P3 Statement of Account of the accused dated 01.01.2017 to 31.12.2017 which does not shows that the cheques subsequent in serial number to Ex.P2 since the appellant/accused did not used the cheques in seriatim. Evenmore, he has not stated about the various cheques which were missing from these serial number. Hence, this cannot be supported for the appellant/accused that all his cheques were used in 2017. Hence, it is unsustainable one.

16. Further, upon perusal of the Ex.D.4 Statement of account of M/s.Karur District Noyyal Tractors Owners Welfare Transfer, Karur (A/c. No.083902000000183) dated 01.04.2016 to 26.02.2018. Ex.D.5 Statement of account of M/s.Karur District Noyyal Tractors Owners Welfare Transfer, Karur (A/c. No.0839020000005830) dated 01.04.2016 to 31.03.2017 which goes to shows about the various transaction on various dates made by the appellant/accused but there is no entry which shows that the appellant/accused has deposited the said amount ie., Rs.5,00,000/- on 04.09.2017 in account and transferred the same to HPCL Company through RTGS for purchase of petrol. Hence, upon perusal of the Ex.P4 and Ex.P5 which does not supported the contention of the appellant/accused.

17. Further, the appellant/accused has not produced any document to prove that he has not made any transaction in the petrol bunk since from the period of 2018 to 2019. Therefore, the defense taken by the appellant/accused at the time of cross examination is clearly viewed as afterthought.

18. Therefore, the appellant/accused has failed to probabalise his defence. Even at the time of 313 questioning he has not raised his contention, he has simply denied the claim of the respondent/complainant. Hence, the appellant/accused has failed to rebut the presumption to shift onus on to the respondent/complainant.

19. As per the section 139 of NI Act, It shall be presumed, unless the contrary is proved 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 or any debt or other liability. When it has been accepted, endorsed, negotiated or transferred was accepted, endorsed, negotiated or transferred for consideration. Once the issuance of cheque is established by admission of the appellant/accused or by evidence the presumptions under section 139 of the Act arise in favour of the complainant.

20. In this regard, I remind the principles laid down in Authority, 2010(4) CTC page 118 S.C in the case Rangappa Vs Sri Mohan, the relevant portion para 14 to 15, is runs as, Negotiable Instruments Act, 1881 (26 of 1881), Sections 138 &139. The Honourable Apex Court has held that the presumption under Section 139, includes existence of a legally enforceable debt or liability. When an accused has to rebut Presumption under Section 139, standard of proof for doing so, is that of preponderance of probabilities. The Complaint discloses existence of a legally enforceable debt and Accused admitted his signature in cheque, then the Statutory presumption comes into play and same has not been rebutted.

21. It is seen that in this case, it is established that the signature in the Ex.P.1 and Ex.P.2 are that of the signature of the accused only and the same was also not denied by the appellant/accused. As already stated and also by the principles, laid down by the Lordship, presumption u/s.139 of N.I Act can be taken into consideration and it is for the accused to place the materials to rebut the presumption. The law is well settled that the accused can also rely upon the circumstances and materials placed by the complainant to rebut the presumption.

22. With this background I have perused the evidence, documents and materials produced by both parties, it is seen that, I have found no materials or circumstances, placed before me to believe the version of the appellant/ accused.

22(1) The Sec 20 of Negotiable Instrument Act reads as below:

“Inchoate stamped instruments- Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable Instrument then in force in”(India), and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives prima facie authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the

amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount. Provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid there under.”

In the decision reported in 2008 (1 CTC 491) at page 494, it has been held that though section 20 of the Negotiable Instruments Act does not appear to cover a case of a blank cheque, there is no specific bar in the Act for a cheque to be filled up by any person other than the drawer. The payee or holder in due course, has authority to fill up the blanks in the cheque and such instrument is valid in law.

“Under section 20 of the Negotiable Instruments Act, a person who signed a blank stamped paper relating to a negotiable instrument is made liable upon such instrument in the capacity in which he signed it to any holder in due course.”

“The instrument may be wholly blank or incomplete in any particular, in either case, the holder has the authority to make or complete the instrument as a negotiable one.”

“Bills and notes are often executed with the name of the payee left in blank to be afterwards filled by actual holder, the object being to enable the owner to pass it off to another without incurring the responsibility as an indorser and any bonafide holder for value may fill it up, with his own name and sue upon it.”

While so, as discussed above, in the EXP 1 cheque herein the name of the complainant only shown as payee.

Even if it is taken for consideration that the accused herein has executed the Ex.P1 and Ex.P2 pronote and cheque herein with the names of the payee left in blank to be afterwards filled, then it enables the bonafide holder for value to fill it up, and the person who signed a blank cheque i.e. the accused is

made liable upon such instrument in the capacity in which she signed it to any holder in due course, as per sec.20 of Negotiable Instruments Act, as discussed above.

In the decision reported in 2012 (2) MWN (Cr.) (DCC) 33 (SC), the division bench of our Hon'ble apex court in para 18 held as below:

“We may also refer to the Judgment delivered by this court in the case, ICDS Ltd., V.Beena Shabeer and Anr.2002 (2) MWN (Cr.) DCC 68 (SC). In the said judgment this court has referred to the nature of liability which is incurred by the one who is a drawer of the cheque. If the cheque is given towards any liability or debt which might have been incurred even by someone else, the person who is a drawer of the cheque can be made liable under section 138 of the Act.

22(2) However, in this case, it is not in dispute that Ex.P.1 and Ex.P2 are the pronote and cheque which supplied by the bank to the appellant/accused in respect of the account maintained with its banker and the signature therein is that of the accused. Further, I am having cursory reading of the judgment of the trial court, it is seen that the trial court very clearly discussed the fact that the accused has not been adduced sufficient evidence to prove that the cheque was not issued for any consideration and it was forged and misused.

23. But, in this regard, it is established in many cases as, it is for the accused to explain his case and defend it once the fact of cheque bouncing is prima facie established. The burden is on him to disprove the allegations once a prima facie case is made out by the complainant. Therefore, the accused has failed to rebut the presumption operating against him. Hence, I hold that the appellant has committed the offence u/s 138 Negotiable Instrument Act.

24. I have perused, the evidences and documents and the materials on record. It is seen that, the accused during 313 questioning, replies as, simply denied the issuance of the cheque and false case has been foisted against him. Further, it is seen that, the complainant, issued notice, about the return of

cheque, but the accused, has evaded the same. The bare denial of the passing of the consideration apparently does not appear to be any defence. Something which is probable has to be brought on record for getting the benefit of shifting the onus of proving to the complainant. That by itself proved the fact, that the accused has to owe some amount to the complainant and she was being in debt with the complainant and further, the accused had failed to prove in what way, the cheque of the accused gone into the hands of the complainant by way of evidences and documents. Further it is seen that the appellant/accused had failed to reply to the statutory notice under section 138 of the Act which leads to the inference that there was merit in the complainant's case.

25. Hence, I hold that the appellant herein has not adduced any valid documents as to rebut the presumption. Hence, I hold that the appellant has committed the offence u/s 138 Negotiable Instrument Act.

26. The appellant/accused has to pay the amount within the statutory period that is within 30 days from the date of issuance of notice. The legal notice Ex.P4 dated 10.09.2020. The accused has received a legal notice on 16.09.2020. Even at the time of trial or at the time of cross examination, the accused has not taken any steps to prove his defense. The defense taken by the appellant/accused at the time of cross examination is viewed as afterthought. Since, he has not come forward with his defense with valid documents even the trial court has given sufficient time to prove his defense. Therefore, upon careful scrutiny of entire matters placed on record, the respondent/complainant has proved the guilt of the appellant/accused for the offence under section 138 of NI Act beyond reasonable doubt.

27. Furthermore, the appellant/accused has cited the following judgment of the Honourable High Court of Madras in 2017(2) MWN (Cr.) DCC 15 (Mad.) in CrI.A. No.22/2016 dated 22.03.2017 and the Honourable High Court of Madras in 2018(3) MWN (Cr.) DCC 186 (Mad.) in CrI.A. No.795/2016 dated 21.02.2018 which are not relevant to this case since, the case in hand that Ex.P1

promissory note and Ex.P2 cheque are valid document and the same was also proved by the independent witness PW2.

28. Therefore, the trial Court has rightly come to the conclusion that the accused has committed the offence. The appellant/accused has failed to discharge his onus of proof. The compensation awarded by the trial Court is also not excessive. Therefore, this Court do not find any reason to interfere with the findings given by the trial Court and the sentence awarded against the accused. Hence, there is no merits in the appeal and appeal is deserves to be dismissed. Accordingly, this appeal is dismissed.

Hence, I hold that the appellant herein has not adduced any evidence as to rebut the presumption. Hence, I hold that the appellant has committed the offence u/s 138 Negotiable Instrument Act.

Therefore, the respondent/complainant has proved the guilt of the appellant/accused for the offence under section 138 of NI Act beyond reasonable doubt.

29. Therefore, the trial Court has rightly come to the conclusion that the accused has committed the offence. The compensation awarded by the trial Court is also not excessive. Therefore, this Court do not find any reason to interfere with the findings given by the trial Court and the sentence awarded against the accused. Hence, there is no merits in the appeal and appeal deserves to be dismissed. Accordingly, this appeal is dismissed.

30. Answering point No 4 :-

Hence, this court is inclined to dismissed this appeal, by confirming of conviction passed by the Fast Track Court Judicial Magistrate (At Magistrate Level), Karur in S.T.C. No.552/2020 dated 14.02.2025.

Taking into consideration of all the materials on record, I am of the view that there is no materials placed before this court to prove the contention of the appellant/accused. This court also perused the judgment of the Fast Track

Court Judicial Magistrate (At Magistrate Level), Karur in S.T.C. No.552/2020 dated 14.02.2025.

In the result, the criminal appeal is dismissed and the judgment of conviction and sentence passed by the Fast Track Court Judicial Magistrate (At Magistrate Level), Karur in S.T.C. No.552/2020 dated 14.02.2025 is confirmed. The learned Judicial Magistrate is directed to secure the accused and to proceed in accordance with law.

Dictated to the steno-typist, typed by her directly on computer, corrected and pronounced by me in the open court on this the 01st day of April 2026.

**DISTRICT AND SESSIONS JUDGE,
KARUR.**