IN THE COURT OF THE DISTRICT AND SESSIONS JUDGE, KARUR

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

DISTRICT AND SESSIONS JUDGE.

Tuesday, the 16th day of June 2026

CRIMINAL APPEAL No.243/2025

[CNR.No:TNKR-01-003235-2025]

From what Court the appeal is preferred	:	The Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur
Number of the case in that Court	:	S.T.C.No.535/2022
Name and Description of the appellant	:	Sivasamy S/o.Sadhasivam, No.26, Govt.Arts College Road, Near Sapthagiri Mahal, Pon Nagar East, Thanthonimalai, Karur Taluk and District.
Name of the complainant	:	N.C.Venugopal, S/o.Chinnamahali Konar, No.15/12, Nallamahlipatty, Mookanankurichi Village and Post, Karur Taluk and District.
The sentence and law under which it was imposed in the lower court	:	The accused is convicted and sentenced to undergo one year simple imprisonment and directed to pay compensation of Rs.2,00,000/- to the complainant within one month under section 357 (3) of Cr.PC., in default of payment to undergo simple imprisonment for another one 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 learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur in S.T.C.No.535/2022 dated 21.08.2025 is confirmed. The learned Judicial Magistrate is directed to secure the**

		accused and to proceed in accordance with law.
Date of filing	:	17.09.2025
Date of notice issued by that court to appear	:	17.09.2025
Date of bail bond if the appellant has been let out on bail	:	----
Date of the appellant ordered to appear	:	----
Date of hearing	:	09.06.2026
Date of Judgment/Order	:	16.06.2026

This criminal appeal is coming on 09.06.2026 for final hearing before me in the presence of Thiru K. Palanirajan, Advocate for the appellant/accused and of Thiru. T. Saravanan, 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) of Cr.P.C/ Sec.415 of BNSS Act against the judgment of conviction and sentence passed by the learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur in S.T.C.No.535/2022 dated 21.08.2025 and to set aside the same.

2) The case was registered against the accused u/s.138 of N.I.Act and after the trial, the learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur in S.T.C.No.535/2022 dated 21.08.2025 has found guilty against the accused u/s.138 of N.I.Act and he was convicted and sentenced to undergo one year simple imprisonment and directed to pay compensation of Rs.2,00,000/- to the complainant within one month under section 357 (3) of Cr.PC., in default of payment to undergo simple imprisonment for another one month.

3(1) The respondent is the complainant before the trial Court. He has preferred a private complaint u/s 200 of Cr.P.C. for the offence u/s 138 of Negotiable Instruments Act. According to the complainant, the accused is a well known person to him and based on such acquaintance, on 28.07.2022, the accused has borrowed a loan amount of Rs.2,00,000/- from the complainant as loan for his urgent family expenses and the accused has issued a post dated cheque dated 29.08.2022 bearing No.000003 drawn on City Union Bank, Karur Branch for a sum of Rs.2,00,000/- in favour of the complainant in order to discharge the above said liability.

3(2) Therefore, on 30.08.2022, the complainant has presented the said cheque for collection through his banker Equitas Small Finance Bank Ltd., Karur Branch. But the same was returned as "Payment Stopped by the Drawer" with memo dated 31.08.2022. Thereafter, on 06.09.2022, the complainant issued a legal notice to the accused calling upon him to repay the cheque amount. The accused has managed to return the notice knowing fully about the contents of the notice with the help of the postal authorities on 14.09.2022. In spite of the statutory notice, the accused has not chosen to pay the amount due under the dishonoured cheque within the stipulated period or reply to the notice. Therefore, the complainant filed a complaint against the accused and the complaint has been filed within the limitation period.

4) The Trial Court took cognizance of the complaint filed by the complainant and after complying with all the formalities under Section 207 of Cr.P.C., they were questioned about the commission of offence u/s 138 of Negotiable Instruments Act. But, the accused denied the same. Therefore, the accused was put on trial.

5) Before the trial Court, on the side of the complainant examined himself as P.W.1 and Ex.P1 to Ex.P4 were marked and on the side of the accused, one Rajeswari was examined as D.W.1 and one Suryamoorthy was examined as D.W.2 and no documents were marked.

6) On consideration of both side evidence and documents, and other materials on record, the learned trial Magistrate arrived conclusion that, the accused committed offence u/s.138 of NI Act and he was convicted and sentenced to undergo one year

simple imprisonment and directed to pay compensation of Rs.2,00,000/- to the complainant within one month under section 357 (3) of Cr.PC., in default of payment to undergo simple imprisonment for another one month.

7) Having been aggrieved against the judgment of conviction and sentence, passed by the learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur in S.T.C.No.535/2022 dated 21.08.2025, the accused has preferred this appeal on the following grounds:

i) The judgment of 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 trial Court has failed to see that there is no legally enforceable debt between the appellant and the respondent as alleged in the complaint.

iv)The trial Court has not taken into consideration that the appellant never borrowed the alleged loan amount from the respondent and did not issue the cheque in question to the respondent and there is only less amount transaction between the appellant and the respondent.

v)The trial Court had failed to see that though there is only less amount transaction, between the appellant and the respondent and as such the disputed cheque which was issued for security purposes has been misused. The respondent had misused the disputed cheque and filed the above said complaint and thus the respondent had committed forgery taking advantage of the custody of the empty cheque. At the time of cross examination of P.W.1, he admitted that only a very meager amount is to be payable to the complainant by the accused. But the trial Court without considering these facts awarded sentence as against the appellant and thus the trial Court had committed great injustice to the appellant.

vi)The trial Court had failed to see that the signature alone is the admitted signature of the appellant as found in Ex.P1 and Ex.P2 and the other recitals in Ex.P1 and Ex.P2 were not written by the appellant and it was fraudulently filledup.

vii)The trial Court had failed to see that all the respondent's witness were all close associates. The trial Court has failed to see that the respondent has not proved the guilty against the appellant. Further, the trial Court punished the appellant on the presumptions and assumptions.

viii)The trial Court has not considered the various rulings submitted on the side of the appellant. The trial Court ought to have given the benefit of doubt and ought to have acquitted the appellant of the charges leveled against him. Hence, prays to allow the appeal.

8) Brief averments of the written arguments filed by the appellant/accused would run is as follows:-

8(1) The appellant/accused has stated that the trial Court has failed to properly appreciate the evidence on record and has erroneously applied settled principles of criminal jurisprudence as laid down by the Honourable Supreme Court of India. The findings of the trial Court are contrary to law, unsupported by evidence and liable to be set aside in their entirety. The appellant is therefore entitled to be acquitted of the charge u/s.138 of NI Act.

8(2) In the present case, the complainant has failed to prove the basis ingredients of the alleged loan transaction, as there is absolutely no documentary evidence, no proof of source of funds, and no independent witness to substantiate the claim. In such circumstances, the presumption u/s.139 cannot be invoked in a mechanical manner. The trial Court has proceeded on the basis of the admitted signature on the cheque without testing the case on the touchstone of probabilities and fairness.

8(3) The complainant has failed to establish his financial capacity to advance the alleged loan, and no independent witness has been examined to support the transaction. These circumstances make the non-existence of consideration highly probable.

8(4) Further, the appellant/accused has relied on the various citations of the Honourable Supreme Court of India such as Nagappa vs.Y.R.Muralidhar (2008) 5

SCC 633, Kalyani Baskar vs. M.S.Sampoornam (2007) 2 SCC 258, John K.Abraham vs. Simon C.abraham, (2014) 2 SCC 236, K.Subramani vs. K.Damodara Naidu (2015) 1 SCC 99, Bir Singh vs. Mukesh Kumar (2019) 4 SCC 197, Krishna Janardhan Bhat vs.Dattatraya G. Hegde (2008) 4 Scc 54, M.S.Narayanan Menon vs. State of Kerala (2006) 6 SCC 39, Vijay vs. Laxman (2013) 3 SC 86, APS Forex Services Pvt.Ltd vs. Sakthi International Fashion Linkers, (2020) 12 SCC 724, Triyambak S.Hedge vs. Sripad (2021) 6 SCC 512, Kishan Rao vs. Shankargouda (2018) 8 SCC 165, Venugopa vs. Madan P.Sarathi (2009) 1 SCC 492, Bharat Barrel and Drum Manufacturing Co. Vs. Amin Chand Pyarelal (1999) 3 SCC 35 which were applicable to the facts of the present case.

8(5) Further, in S.Gopal vs. D. Balachandran, the Honourable HighCourt held that non-production of financial documents, absence of independent witnesses, and failure to prove source of funds are fatal to the complainant's case u/s.138 of NI Act.

8(6) Similarly, in R.Mani vs. S.Chidambaram, it was held that when the defence of blank cheque is probable and supported by surrounding circumstances, the accused is entitled to the benefit of doubt and consequent acquittal.

8(7) The Honourable High Court has further held that when the accused seeks expert opinion regarding handwriting or ink differences, such request should ordinarily be allowed, as it goes to the root of the defense. In this regard, the principles laid down by the Honourable Supreme Court in T.Nagappa vs. Y.R.Muralidhar and Kalyani Baskar vs. M.S.Sampoornam have been consistently followed, holding that denial of such opportunity amounts to denial of fair trial.

8(8) The accused has taken a defence that the cheque in question was not issued to the complainant but was given as a blank signed cheque to one Ponraj in connection with a mortgage transaction. This defense has been supported by the evidence of D.W.1 and D.W.2. The trial Court has rejected the evidence of D.W.1 on the ground that she is an interested witness. However, it is settled law that merely because a witness is related, his or her testimony cannot be discarded. In the present case, the trial Court has not pointed out any material contradiction in the testimony of

D.W.1, but has rejected it solely on the ground of relationship.

8(9) The approach adopted by the trial Court is clearly one-sided and contrary to the settled principles of criminal jurisprudence. It is a cardinal principle of criminal law that the prosecution must prove its case beyond reasonable doubt. In the present case, the material on record clearly shows that there are serious doubt regarding the existence of the alleged debt, the circumstances under which the cheque was issued, and the credibility of the complainant's case. The cumulative evidence of all the above factors is that the prosecution has miserable failed to prove its case and the conviction of the appellant/accused is wholly unjustified.

9) On consideration of the complaint, evidence and other materials on record, the point arise for determination is are 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?

10) 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 1 3 8 (c) NI Act.	Dt when the cognizance of offence made u/s.142(b) of NI Act.
29.08.2022	30.08.2022	31.08.2022 "Payment Stopped By the Drawer"	06.09.2022	Legal notice was returned a by the accused on 14.09.2022 and no reply notice was issued by the accused.	29.09.2022	13.10.2022

10(1) In this case on hand, the accused had issued a post dated cheque dated 29.08.2022 bearing No.000003 drawn on City Union Bank, Karur Branch for a sum of Rs.2,00,000/- in favour of the complainant to discharge the above said liability. The cheque was presented for collection by the complainant through his banker viz.Equitas Small Finance Bank Ltd, Karur Branch on 30.08.2022. It was returned as "Payment Stopped By the Drawer" on 31.08.2022. Then the complainant has issued legal notice to the accused on 06.09.2022 to pay the amount within 15 days from the date of receipt of the notice and the accused has managed to return the notice on 14.09.2022. Then the Complainant had filed the present case on 13.10.2022. 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.

11) Answering for Points 2 and 3

11(1) The appellant herein has filed the appeal against the judgment in S.T.C.No.535/2022 dated 21.08.2025 on the file of the learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur.

11(2) For the convenience the parties nomenclature as used as before the trial court.

11(3) On the side of the complainant, the complainant was examined as P.W.1 and Ex.P1 to Ex.P4 were marked and on the side of the accused, one Rajeswari was examined as D.W.1 and one Suryamoorthy was examined as D.W.2 and no documents were marked.

The document Ex.P1 goes to show the original cheque bearing registration no.000003 for Rs.2,00,000/- dated 29.08.2022 drawn on City Union Bank, Karur Branch. Ex.P2 goes to shows that original return memo dated 31.08.2022 issued by Equitas Small Finance Bank Ltd, Karur Branch. Ex.P3 goes to the show the office copy of the legal notice issued by the complainant to the accused dated 06.09.2022. Ex.P4 goes to show the original returned postal cover along with online copy of track consignment. 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.

11(4) 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.

11(5) After going through the materials available on record, it is seen that it is not in dispute that Ex.P1 is the cheque leaf supplied by the bank to the appellant/accused in respect of the account he was maintaining with the banker, namely City Union Bank Ltd, Karur Branch. But, the contention of the appellant/accused is that he did not know the respondent/complainant and he borrowed a sum of Rs.3,00,000/- from one Ponraj and has issued the alleged cheque as security. Thereafter, the said Ponraj has filed this false case as against him through this respondent/complainant. Hence the accused is bound to rebut the same as per the Sec. 139 of N.I.Act.

11(6) Further, in order to rebut the presumption under Negotiable Instruments Act, the wife of the appellant/accused viz.Rajeswari was examined herself as D.W.1 and one Suryamoorthy was examined as D.W.2 and no documents were marked.

11(7) The D.W.1 Rajeswari who is the wife of the accused in her chief examination has deposed that she did not know the complainant. She deposed that they have borrowed a sum of Rs.3,00,000/- from one Ponraj through Sakthivel and they have paid interest to the said Ponraj. During the lockdown days, they were not able to pay the interest. Further, she deposed that they have asked her husband to return back the money. Thereafter, one day, they have took her husband and her husband has contacted her and asked to bring the cheque. She deposed that she has taken the cheque. The said Ponraj has got signature in the promissory note and cheque and stated that he would return the same later.

11(8) D.W.2 Suryamoorthy who is the relative to the accused in his chief examination has deposed that he is running a Garments business at Rayanoor. He deposed that he was in need of money to expand his business. Thereafter, on 01.02.2020, he asked money from one Sakthivel. The said Sakthivel, Ponraj and complainant Venugopal were running a finance and the said Sakthivel told that he would get money from them. He went to Chennai for purchasing of machines. Since they were not able to give the amount in cash, the said Sakthivel and Venugopal has paid a sum of Rs.80,000/- through the ATM of one Rajeswari. On 01.02.2020, at about 3 -4 hours, he has withdrawn amount through the ATM card of Sakthivel and Rajeshwari in the ATM at Chennai Mangadu.

11(9) Further, he deposed that during the lockdown days, he was not able to run his company. Thereafter, he gave interest to the said Ponraj and Venugopal through the said Sakthivel. Since he was not able to run the company, he closed the same and he shifted to Chennai. Thereafter, the said Ponraj and Venugopal have threatened him and got a sum of Rs.3,18,000/- as interest and one time, they have kidnapped him and have taken a sum of Rs.20,000/- from him. During the year 2018, the accused have mortgaged his land to one Sakthivel and borrowed a sum of Rs.3,50,000/-. He deposed that he has repaid the amount borrowed by him. Since the said Sivasamy has not paid his loan, they have stated that the loan borrowed by him was still pending and they have kidnapped the said Sivasamy and got his signatures in Promissory note and cheque and the said fact was informed to him by the said Rajeswari. Further, the said Sakthivel has threatened that if the said Sivasamy has not executed a sale deed with regard to the mortgaged land to the said Ponraj and if he failed to do so, they would file many cases as against the said Sivasamy. Thereafter, two cheque cases have filed as against the said Sivasamy and they have stated that they would file another case as against him. Further, a civil case was filed with regard to the mortgaged land. The said Sakthivel is threatening the accused at the instigation of the said Ponraj. Further, he has stated that if the accused execute sale deed in favour of him, he would withdraw his case. The said Venugopal, Sakthivel and Ponraj have contacted him many times through phone.

11(10) One of the ground raised by the learned counsel for the appellant/accused is that the accused has taken a defence that the cheque in question was not issued to the complainant but was given as a blank signed cheque to one Ponraj in connection with a mortgage transaction. This defense has been supported by the evidence of D.W.1 and D.W.2. The trial Court has rejected the evidence of D.W.1 on the ground that she is an interested witness.

11(11) From, the perusal of the records, it is seen that in order to prove his defense, the appellant/accused has examined his wife Rajeswari as D.W.1 and his relative Suryamoorthy as D.W.2. D.W.1 has stated that they have borrowed money from one Ponraj and during the lockdown days there were not able to pay the interest. Therefore, the said Ponraj has forcefully got the cheque from the appellant/accused. However, D.W.2 who is the relative of the appellant/accused has stated that the appellant/accused was kidnapped by the said Ponraj, one Saktivel and they have got his signatures in the promissory note and cheque and he stated that the said fact was informed to him by the D.W.1 Rajeswari. However, D.W.1 Rajeswari has stated that the said Ponraj has forcefully got the cheque from her husband. It is seen that there are contradictions in the evidence of D.W.1 and D.W.2 with regard to the obtaining of the cheque by the said Ponraj and therefore, the above said ground is unsustainable.

11(12) Further, D.W.2 who is the relative of the appellant/accused in his evidence has deposed that the accused has borrowed a mortgage loan from one Sakthivel during the year 2018. However, the appellant/accused has not taken the above said defense. Further, D.W.2 during his examination has deposed that the said Rajeswari D.W.1 told him that Ponraj kidnapped the appellant/accused and obtained his signature in the promissory note and the cheque and also threatened to transfer the property to him and the said Sakthivel, Ponraj and the respondent/complainant were threatening to transfer the property for withdrawal of the case. However, these facts were not at all put to P.W.1 during his cross examination.

11(13) Further, it is seen that D.W.2 during his examination has admitted the fact that no complaint was given with regard to the kidnapping of the appellant/accused by the said Ponraj. Further, the appellant/accused has not taken any legal action as against the said Ponraj and the respondent/complainant with regard to the misuse of the cheque. Further, the defense raised by the appellant/accused is an afterthought since the appellant/accused during 313(1)(b) of Cr.P.C questioning has not raised the above said defense and he has simply stated that he did not know the complainant and he has not issued any reply to the notice sent by the respondent/complainant in order to prove his contentions. Further, the appellant/accused has not produced any documentary evidence on his side in order to prove his case. Therefore, the appellant/accused has failed to rebut the presumption u/s.139 of Negotiable Instruments Act.

11(14) Further, another ground raised by the learned counsel for the appellant/accused is that the respondent/ complainant has failed to establish his financial capacity to advance the alleged loan, and no independent witness has been examined to support the transaction. These circumstances make the non-existence of consideration highly probable.

11(15) Here, I would rely on the judgment in ***Tedhi Singh vs.Narayan Dass Mahant, in C.A.No.362 of 2022 dated 07.03.2022*** **wherein the Honourable Supreme Court has held that "*The trial Court and the first Appellate Court have noted that in the case under Section 138 of the N.I.Act, the complainant need not show in the first instance that he had the capacity. The proceedings under Section 138 of the N.I.Act is not a civil suit. At the time, when the complainant gives his evidence, unless a case is set up in the reply notice to the statutory notice sent, that the complainant did not have the wherewithal, it cannot be expected of the complainant to initially lead evidence to show that he had the financial capacity.*"**

Therefore, on the basis of the above said citation, the ground raised by the appellant/accused with regard to the financial capacity of the respondent/complainant cannot be taken into consideration.

11(16) Further, the case in hand, the appellant/accused has not proved the contrary that the cheque was not issued by him to the respondent/complainant. Therefore, the presumption is in favour of the respondent/complainant. Therefore, the Ex.P1 cheque has been executed by the appellant/accused since he has not proved his claim. Therefore, the appellant/accused has not proved his claim through his documentary or in oral evidence. Further, the appellant/accused has not given rebuttal evidence to prove his case.

11(17) 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, <u>Negotiable Instruments Act, 1881 (26 of 1881), Sections 138 &139 .</u> 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.

11(18) It is seen that in this case, it is established that the signature in the cheque in Ex.P1 is that of the signature of the accused only. 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.

11(19) With this background I have perused the evidence, documents and materials produced by both parties, it is seen that, the appellant/accused submitted as, he has issued the alleged cheque in Ex.P1 to one Ponraj as security for the loan borrowed by him. However, the said Ponraj has filed this false case as against him through the respondent/complainant, but I have found no materials or circumstances, placed before me to believe the version of the appellant/ accused.

11(20) 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 per- son 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 any- thing 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 is 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 EXP1 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 EXP 1 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.c.the accused is made liable upon such instrument in the capacity in which he 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.

11(21) However, in this case, it is not in dispute that Ex.P1 is a cheque leaf supplied by the bank to the accused in respect of the account maintained with its banker. 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.

11(22) 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.

11(23) With this background I have perused the evidence, documents and materials produced by both parties, it is seen that, the appellant/accused submitted as, the cheque was fraudulently misused by the complainant. On perusal of the cross examination of the PW1, D.W.1, D.W.2, and Ex.P1 the cheque, it is made crystal clear, that the cheque was given by the appellant/accused only. Though it was denied by the accused, he has not chosen to prove it with sufficient evidences, documents and other materials.

11(24) In this case, the appellant/ accused during 313(1)(b) of Cr.P.C questioning, replies as, simply stated that false case has been foisted against him and he did not know the respondent/complainant. However, the appellant/accused has not proved his contentions by his oral or documentary evidence. 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 he 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.

11(25) 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.

11(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.P3 dated 06.09.2022 was returned as by the appellant/accused on 14.09.2022. Further, the appellant/accused has not sent any reply to the complainant and he has failed to repay the said amount. Upon careful scrutiny of entire matters placed on record, the respondent/complainant has proved the guilt of the appellant/accused for the offence u/s.138 of NI Act beyond reasonable doubt.

11(27) Therefore, the trial Court has rightly come to the conclusion that the accused has committed the offence. The appellant/accused has failed to discharge her 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. Accordingly, point nos. 2 and 3 are answered.

12) Answering for Point No. 4

12(1) Hence, this court is inclined to dismissed this appeal, by confirming of conviction passed by the learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur in S.T.C.No.535/2022 dated 21.08.2025.

12(2) 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 learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur in S.T.C.No.535/2022 dated 21.08.2025.

In the result, this appeal is dismissed and the judgment of conviction and sentence passed by the learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur in S.T.C.No.535/2022 dated 21.08.2025 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 on my dictation, corrected and pronounced by me in open Court on the 16th day of June 2026.

ELAVAZHAGAN

Digitally signed by ELAVAZHAGAN
Date: 2026.06.17 10:17:48 +0530

DISTRICT AND SESSIONS JUDGE,
KARUR.