



**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF -CUM-JUDICIAL
MAGISTRATE, GUDALUR**

**PRESENT: THIRU. G. SARAVANAKUMAR, B.A, B.L., (Hon's)
Principal District Munsif -cum- Judicial Magistrate, Gudalur.**

Tuesday, on this 7th day of July' 2026

STC. No. 446 of 2024

CNR.No.TNNS070008022024

Mr. R.Chelladurai, Aged 76 years,
S/o. Raman,
D.No.11/269-B, Thuppukutty Pettai,
Gudalur Bazaar Post,
Gudalur Taluk, The Nilgiris.

-- Complainant

-Vs-

Mrs. Renuka.G, Aged 40 years,
W/o. Gopi,
Staff- Priya Hospital,
Near Arusamani's House,
Thuppukutty Pettai,
Gudalur Bazaar Post, Gudalur Taluk,
The Nilgiris.

-- Accused

The Offence involved in this case having been taken cognizance and taken on file on 19.07.2024 and coming before me on 24.06.2026 for final hearing in the presence of Mr.V.Krishnakumar, Learned Advocate for Complainant and Mr.S.B.Vivin and Mr.C.Saravanakumar, Learned Advocates for Accused, upon hearing the arguments of the both sides, upon perusing the material records and having stood over for consideration till this day, this court delivered the following :

CASE SUMMARY

Sl.No.	Particulars	Details
I.	Period of Remand of Accused	Nil. Since accused not arrested
II.	Date of filling of Private complaint in court	19.07.2024



III.	Date of questioning of accused under section 251 of Cr.p.c	22.01.2025		
IV.	Filling of Miscellaneous petitions and their result	(i) Petition filed under section 353 BNSS vide CrI.M.P.No. 215/2026 and the same was allowed on 03.06.2026 (ii) Petition filed under section 70(2) of Cr.P.C vide CrI.M.P.No. 2377/2025 and the same was allowed on 09.07.2025.		
V.	Date of examination in chief and cross-examination of witnesses	Witnesses	Examination in chief	Examination in cross
		Pw1	11.02.2026	02.04.2026
		Dw1	03.06.2026	03.06.2026
VI.	Date of examination of accused under section 313(1)(b) of Cr.p.c	07.04.2026		
VII.	Details of abscondence of accused and his appearance / production	Bailable Warrant was ordered on 12.03.2025 subsequently the accused was surrender and Bailable Warrant was recalled on 09.07.2025.		
VIII.	Grant of stay by superior court and the result thereof	Nil		

JUDGMENT

1. This Judgment shall decide upon the complaint filed by Mr. R.Chelladurai (hereinafter referred to as the 'the complainant') under Section 138, Negotiable Instruments Act, (hereinafter referred to as the 'the NI Act') as against Mrs. Renuka.G (hereinafter referred to as the 'Accused').

2. The case of the Complainant in brief as follows,

2.1. The complainant and the accused are well known to each other as family friends and in view of the said acquaintance, the accused had borrowed a sum of



Rs. 2,00,000/- (Rupees two lakh only) on 07.02.2023 from the complainant for her family expenses and promised to repay the same on or before 06.05.2024.

2.2. On 05.05.2024, the complainant approached the accused and demanded the accused to settle the amount directly to him. At that time, the accused had issued a cheque bearing No. 072213 of TMB (Tamilnad Mercantile Bank), Gudalur Branch dated 06.05.2024 and requested the complainant to present the cheque for collection on 06.05.2024 and promised the complainant that the accused would make arrangements to honor the cheque.

2.3. As per the advice of the accused, the complainant had presented the cheque for encashment on 07.05.2024, through his banker Indian Bank, Gudalur branch, but the cheque was returned unpaid for the reason FUNDS INSUFFICIENT as per his banker's memo dated 10.10.2023 and the said memo was delivered to the complainant on 09.05.2024.

2.4. After the dishonor, the complainant as per the provision of the Negotiable Instrument Act, issued a legal notice dated 30.05.2024 by registered post on 30.05.2024 to the accused to pay the cheque amount within 15 days from the date of receipt of the legal notice to the Accused's work address which was duly intimated to the accused on 31.05.2024 and 01.06.2024. The postal cover contains the legal notice was returned to the complainant's counsel as intimation served not claimed on 10.06.2024. The accused has neither paid the cheque amount within 15 days from the date of legal notice nor given any reply to the legal notice. Hence this complaint.

3. Examination of the accused under section 274, 316 of BNSS.

After providing sufficient time to ascertain the facts of the case, the accused was examined under Section 274, 316 of BNSS, and the substance of the offence



explained to him and asked whether he plead guilty. The accused had denied the same and pleaded not guilty.

4. Complainant side evidence

The complainant had examined himself as PW1 and he has filed his proof affidavit *in lieu* of chief examination and through his documents under Exhibits P1 to P5 were marked, his testimony in the chief examination was replica of the complaint. With these said evidence complainant side was closed.

5. Examination of the accused under section 313 of Cr.P.C

Thereafter, statement of the accused u/s.313 C.r.P.C was recorded after disclosing the incriminating circumstances and evidence against the accused, to which the accused had denied the evidence as **“false evidence”** and further stated that **“she did not borrow money from the complainant, she borrowed money only from the son of the complainant”**. In order to prove the same, the accused is examined as DW1 but no documents marked through her. With the said evidence accused side was closed.

6. Point for consideration

Now the point for determination before this court is whether the complainant had established a case against the accused under section 138 of the N.I.Act beyond any doubts, so as to punish the accused for the same?

6.1. The learned counsel for the complainant in his oral argument would submit that the complainant had established the ingredients of the Section 138 of the N.I.Act by the examining himself as PW-1, and he had marked the original cheque given by the accused for a sum of Rs.2,00,000/- as Ex.P1. The bank return memo was



marked as Ex.P2. It is seen from the Ex.P2 that the cheque in dispute was returned for the reason of “Funds insufficient” as claimed in the complaint. There was no sufficient fund in the accused bank account on the date of issuance of the cheque, In this case the accused had not denied her signature in the cheque and she not denied the entrustment of the cheque to the complainant, she is not adduced proper evidence to prove her case. Once the signature was admitted and failed to prove her case by the accused, the complainant is entitled for the statutory presumptions in favour of him as per the N.I.Act and the burden to rebut the said presumptions is solely upon the accused. But in this case the accused had not rebutted the said presumption. All the above facts would be the circumstance admitting the version of the complainant case. While so, the evidence of the PW-1 and the presumptions in favour of the complainant are in tact. It is sufficient to convict the accused. When the accused had not rebutted the presumptions then the complainant could use the presumptions in favour of him to substantiate his case. Hence, it must be taken that the accused had not rebutted the presumption as per Sec.139 of the N.I.Act and it was prayed to convict the accused and to order compensation to the complainant for the monitory loss he had suffered.

7. The learned counsel appeared for the accused would argued that the accused did not borrow any money from the complainant herein, indeed she borrowed Rs.35,000/- from the son of the complainant. For the interest at the rate of 12 % per month, she paid Rs.5,500/- as interest to the complainant’s son for 6 months. The complainant son Mr. Raja demanded more interest, the accused unable to pay the excess interest. At the time of borrowing money from the complainant’s son, the accused given two unfilled cheque to him. By misusing the said cheque, the complainant filed the false case against the accused. The accused has proved her case through the oral testimony of the DW1. Therefore the complainant miserably failed



to prove this case and the accused rebutted the presumption through the oral testimony of DW1. Moreover, the Statutory Notice also not served to the accused. Hence prays to acquit the accused from this case.

8. This court had carefully perused the records and the materials available in the case bundle. For properly appreciating the facts of the case and the legal aspects to be determined, a reference is necessary to the relevant statutory provisions. The following are the essential ingredients for constituting the offence u/s.138 N.I. Act:

- * Person must have drawn a cheque on an account maintained bank for payment of certain amount of money to another person from out of that account.
- * The cheque should have been issued for discharge, in whole or in part, of any debt or other liability;
- * That cheque has been presented to the bank within a period of three months from the date of which it is drawn or within the period of its validity whichever is earlier;
- * That cheque is returned by the bank unpaid, either because of the amount of money standing to the credit of the account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with the bank;
- * The payee or the holder in due course of the cheque makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, within 30 days of the receipt of information by him from the bank regarding the return of the cheque as unpaid;



* The drawer of such cheque fails to make payment of the said amount of money to the payee or the holder in due course of the cheque within 15 days of the receipt of the said notice.

9. It is only when all the above mentioned ingredients are satisfied that the person who had drawn the cheque can be deemed to have committed an offence under Section 138 of the Act.

10. The NI-Act raises two presumptions in favor of the holder of the cheque i.e. the Complainant in the present case;

* firstly, in regard to the passing of consideration as contained in Section 118 (a) and,

* secondly, a presumption that the holder of cheque received the cheque of the nature referred to in Section 138, for discharge in whole or in part, of any debt or other liability.

11. For the offence under Section 138 of the Act, the presumptions under Sections 118 and 139 have to be compulsory raised as soon as execution of cheque by accused is admitted or proved by the complainant and thereafter burden is shifted to accused to prove otherwise.

12. These presumptions shall end only when the contrary is proved by the accused, that is, the cheque was not issued for consideration and in discharge of any debt or liability etc.

13. A presumption is not in itself evidence but only makes a prima facie case for a party for whose benefit it exists. The presumptions under section 118 and 138 are



rebuttable in nature.

“Section 118(a) and section 139 of the Act read as under:

Sec.118. Presumption as to Negotiable Instruments: Until the contrary is proved, the following presumptions shall be made:

(a) of consideration that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration;

Sec. 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, of any debt or other liability.”

14. In the present case, the Accused has not denied her signature in the cheque in question, at the stage of questioning either under section 316 BNSS or under section 313 of CrPC.

15. It is apposite to note here that the Hon’ble Supreme Court in **Rangappa (Vs) Sri Mohan, [AIR 2010 SC 1898]** observed as follows,

“Once the cheque relates to the account of the accused and he accepts and admits the signatures on the said cheque, then initial presumption contemplated under Section 139 of the Negotiable Instruments Act has to be raised by the Court in favour of the Complainant” .



16. In the case of **M/S Laxmi Dyechem (Vs) State of Gujarat & ors. [2013 CRI.L.J. 3288]** the Hon'ble Supreme Court has observed as follows –

“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. If however, the accused/drawer of a cheque in question neither raises a probable defence nor able to contest existence of a legally enforceable debt or liability, obviously statutory presumption under Section 139 of the NI Act regarding commission of the offence comes into play if the same is not rebutted with regard to the materials submitted by the complainant”.

17. Likewise, in the case of **K.N.Beena (Vs) Muniyappan and another [2002 SCC (CRI) 14]** the Hon'ble Supreme Court has observed as follows:

“Under Section 118 unless the contrary was proved, it is to be presumed that the Negotiable Instrument (including a cheque) had been made or drawn for consideration. Under Section 139 the Court has to presume, unless the contrary was proved, that the holder of the cheque received the cheque for discharge, in whole or in part, of a debt or liability. Thus, in a complaint under Section 138 the Court has to presume that the cheque had been issued for a debt or liability. This presumption is rebuttable. However, the burden of proving that a cheque had not been issued for a debt or liability is on the accused”.



18. Thus, as soon as the facts required to form the basis of a presumption of law exist, no discretion is left with the court but to draw the statutory conclusion, but this does not preclude the person against whom the presumption is drawn from rebutting it and proving the contrary. The rebuttal does not have to be conclusively established but such evidence must be adduced before the court in support of the defence that the court must either believe the defence to exist or consider its existence to be reasonably probable.

19. The same was affirmed by the Hon'ble Supreme Court in **Krishnajanardhan Bhat vs. Dattatraya G. Hegde [2008 CrI.L.J. 1172]** wherein it was held that standard of proof on the part of an accused and that of the prosecution in a criminal case is different. The Hon'ble Court also held that prosecution must prove the guilt of an accused beyond all reasonable doubt, the standard of proof so as to prove a defence on the part of accused is 'preponderance of probabilities'. Inference of preponderance of possibilities can be drawn not only from the materials brought on record by the parties but also by reference to the circumstances upon which he relies. While adjudging whether in a case the presumption of consideration has been rebutted, it becomes important to underscore that a mere denial of liability or vague defence of blank cheque as security, cannot be taken at the mere ipse dixit of the accused. The accused has to come forth with a convincing defence that appeals to the judicial conscience. Needless to state that if on a bare denial the presumption is stated to be rebutted, that would defeat the legislative intention of having a presumption in the first place. The reverse onus clause has been introduced further the legislative objective of improving the credibility of negotiable instruments. The presumption that a person would not normally hand over a signed cheque to another unless the same is for a liability has to be respected and given its full play. Only in a case where the accused comes up with a convincing defence to



liability, that the presumption can be stated to have been rebutted.

20. In the present case it was not in dispute that the signature found in the Ex.P1- cheque in dispute is that of the accused at the time of questioning under Section 316, 274 of BNSS or 313 of CrPC, the accused had not denied her signature in the cheque in dispute.

21. The specific case of the accused is that she borrowed only Rs.35,000/- from the complainant's son and given two unfilled cheques to him as security and repaid the interest for 6 months, there was a dispute arisen between the accused and the complainant's son, therefore the complainant misused the above referred cheque and file the present case.

22. In order to prove the same, the accused Mrs. Renuga was examined as DW1, but no document has been produced on the side of the accused. According to the DW1/ the accused, she borrowed a loan of Rs.35,000/- from the complainant's son Mr.Raja, the accused paid the interest of Rs.5500/- for 6 months. The said Raja demanded more interest. Since the accused's husband is a Auto driver, she unable to pay the excess interest. Therefore, there was a dispute arises between the complainant's son and the accused. Hence the complainant filed the false case by misusing the security cheque issued by the accused infavour of said Raja.

23. This court carefully perused the evidence of the DW1. The Dw1 deposed as mentioned above. According to the Dw1, the accused had borrowed a sum of Rs.35,000/- from the complainant's son and repaid Rs.5500/- as interest for 6 months which comes around Rs.33000/-. According to Dw1, she borrowed above mentioned Rs.35,000/- for interest at the rate of 12% per month. Hence the interest would be comes around Rs.4200/- only. But she deposed that she paid Rs.5500/- per month.



Further, during cross examination, the Dw1 admitted that, she had not given any complaint as against the said Raja, who is the son of the complainant for demanding exorbitant interest. If she really borrowed Rs.35,000/- from the complainant's son and repaid sum of Rs.33,000/- as interest for 6 months, but he demanded exorbitant interest then she would have lodged a complaint against the said Raja. But the Dw1 admitted that she did not lodge any complaint against him. There is no satisfactory explanation from the Dw1 which prevent her from lodge a complaint against a person who demanded more interest evenafter receipt of Rs.33,000/- as interest for the Principal amount of Rs.35,000/-.

24. As already stated above, during examination under section 274, 316 of BNSS, the accused did not deny her signature found in the Ex.P1 – Cheque. But during cross examination, she denied her signature, she denied the execution of cheque, which is unbelievable. The records further reveals that the cheque in dispute was returned on the ground of Insufficient Fund, not on the ground of Signature differ or Signature not belonging to the Account Holder. Apart from that, the defense side did not produce any documentary evidence like Complaint, Reply Notice, etc. to substantiate the oral testimony of Dw1. Therefore, the defense of the accused is unbelievable.

25. Further contention of the Learned Counsel for the accused is that the complainant did not issue the statutory notice under section 138 of Negotiable Instrument Act to the correct address of the accused. Therefore, there is no cause of action arise to file the present case as against the accused. This court carefully peruses the available records. The Ex.P3 Notice has been sent to the accused by mentioning her address as Tmt.Renuga.G (Staff Priya Hospital), W/o. Gopi (Auto Driver), Near Arasumani House, Thuppukutti Pettai, Gudalur, The Nilgiris. The said



notice under Ex.P3 was returned with Postal endorsement as Not claimed. The returned postal cover is marked as Ex.P5. In the Ex.P5, it is mentioned that Absent, Intimation Served 31.05.2024 and 01.06.2024 Not claimed, Hence returned to sender Sd 08.06.2024. But, this Court Summon send to the accused in the address namely Mrs.Renuga.G, W/o. Gopi (Auto Driver), near Arasumani House, T.K.Pet, Gudalur has been duly served to the accused. The address mentioned in the Ex.P3 – Notice and the Court summon are tallied. Apart from that, after service of summons from this court, the accused appeared before this court and executed a bond under section 88 of Cr.P.c, wherein her address is mentioned as Mrs.Renuga.G, W/o. Gopi (Auto Driver), near Arasumani House, Thuppukutti Pettai, Gudalur. This address is not denied by the accused.

26. At this juncture, it is useful to refer the Judgment of the Hon'ble High Court of Bombay (Goa Bench) in the matter of Sheik Shabeer Vs. Sheik Yusuf reported in 2012 (4) BOM CR (Cri) 800 wherein it is observed as follows,

*“In the case of **C.C. Alavi Haji Vs. Palapetty Muhammed and Another**, the Apex Court has held that any drawer who claims that he did not receive the notice sent by post, can, within 15 days of receipt of summons from the court in respect of the complaint under Section 138 of the Act, make payment of the cheque amount and submit to the Court that he had made payment within 15 days of receipt of summons and, therefore, the complaint is liable to be rejected.*

The Apex court further held that a person who did not pay within 15 days of receipt of the summons from the Court along with the copy of the complaint us. 138 of NI Act, could not obviously contented that there was no proper service of notice as required us 138, by ignoring statutory presumption to the contrary u/s 27 of the General clauses Act and Section 114 of the Evidence Act.

The Apex Court further held that another interpretation of the proviso would defeat the object of the legislature and referred to the case of K.Bhaskaran (supra.). The Apex Court held that ‘giving of notice’ in the context of clause (b) of proviso was



not the same as ‘receipt of notice’ ; the trickster cheque drawer would get premium to avoid receiving the notice by different strategies and he could escape from the legal consequences of Section 138 of the Act.”

27. The above mentioned verdict of the Hon’ble Apex Court is squarely applicable to the fact and circumstances of the case in hand. Therefore, the defense of the accused is that the statutory notice is not duly served to the accused is unsustainable.

28. On the entire perusal of the records the complainant had substantiated his case and the essential ingredients of the Section 138 of the Negotiable Instruments Act as held by the Apex Court in **Indian Bank Association Case reported in 2014(5) SCC 590-** in para 18. “*We make it clear that if Provisos (a),(b) and (c) to section 138 of the Act are shown to have been complied with, technically the commission of the offence stands completed and it is for the accused to show that no offence could have been committed by him for specific reasons and defences*”

29. Having found that the complainant had fulfilled his part of onus in proving his case, now it is for the accused to raise a probable defence that he is not at all having any enforceable legal debt or liabilities with the complainant. Though the accused is not necessary bound to let in evidence by coming into box but necessarily there must be some piece of evidence to show that the case of the complainant is not reliable. The accused did not pleaded that the cheque was not issued by her or she did not denied the signature on the cheque. The accused admitted she issued that cheque for the security purpose to complainant’s son.

30. When there was no evidence to support the defence version this court is of the considered opinion that the said defence was unbelievable and it was taken only just for the purpose of this case.



31. If at all the accused could able to establish her defence then the burden would again shift upon the complainant to establish his case without the aid of the presumptions. But in this case the accused had miserably failed to rebut the presumptions as discussed above and the judgments discussed supra. Hence, this court is of the considered opinion that the defence of the accused is totally not trustworthy and it is liable to be rejected.

32. It is a well settled proposition of law that mere suggestion to a witness would not amount to proof of the said fact unless and until the same was proved by any acceptable evidence on record and this court would lend support of the following Judgment. In "**V.S. Yadav Vs. Reena.**" Crl. A. No. 1136 of 2010 passed by Hon'ble High Court of Delhi, the Hon'ble Court observed at para 5 that:

"In the present case, the accused in his statement stated that he had given cheques as security. If the accused wanted to prove this, he was supposed to appear in the witness box and testify and get himself subjected to cross examination. His explanation that he handed the cheques as security for taking loan from the complainant but no loan was given should not have been considered by the Trial Court as his evidence and this was liable to be rejected since the accused did not appear in the witness box to dispel the presumption that the cheques were issued as security. Mere suggestion to the witness that cheques were issued as security or mere explanation given in the statement of accused U/s 281 Cr.PC that the cheques were issued as security does not amount to proof".

33. Hence, this court is of the considered opinion that the said plea of the accused is liable to be rejected and there is not even a preponderance of probabilities to make this courts mind that the accused had rebutted the presumptions in favour of the complainant. This court could also able to see that when the accused had taken a specific plea as above, it is the duty of the accused to establish why she had signed in



the cheque without even getting the loan, why she was not lodged complaint as against any person including Complainant's Son Mr.Raja. But the accused had not stated any circumstance for the deviation of the same, which only goes to prove that the defence of the accused is not true and taken just for the case.

34. From the foregoing discussions, this court is of the considered opinion that the accused had miserably failed to rebut the presumptions under the Negotiable Instruments Act and he had failed to establish his probable defence. And had failed to discharge the burden upon him as per the dictum laid down in **T.Vasanthakumar (Vs) Vijayakumari, reported in 2015(2) MLJ (CrI) 605 (SC)** and thus this court is of the consider view that the complainant had fulfilled the basic ingredients of Sec.138 Negotiable Instruments Act and the accusation against the accused was proved by the complainant beyond any doubts.

35. And this court also as a corollary comes to the conclusion that the Ex.P1 Cheque in dispute for the total sum of Rs.2,00,000/- was given by the accused to the complainant to discharge the legally enforceable debt for the total amount of Rs.2,00,000/- as seen from them and as the said cheque was returned for the reason of 'Funds insufficient' vide P2 and after the Ex.P3 legal notice too, the accused had not repaid the amount within the statutory period, further there was no pleading that at the time of dishonour of the cheque there was sufficient fund available in the accused account, and when the defence of the accused was not believed by this court in the discussions supra, the accused is found guilty under the Sec.138 of the Negotiable Instruments Act.

36. In the result, the accused is found guilty under section 255(2) Cr.P.C for the offence under section 138 Negotiable Instruments Act and convicted and sentenced to undergo **TEN months simple imprisonment and to pay a**



compensation of Rs. 2,00,000/- (value of the dishonoured cheque) to the complainant under section 357(3) Cr.P.C with in One month and in default of payment of the compensation, the accused shall undergo a further period of TWO months simple imprisonment as default sentence, considering the over all facts and circumstances of the case.

Dictated to the stenotypist, directly by him in the system attached with chamber, corrected and pronounced by me in the open court this the 7th day of July' 2026.

**PRINCIPAL DISTRICT MUNSIF -CUM-
JUDICIAL MAGISTRATE, GUDALUR.**

COMPLAINANT SIDE WITNESS

Prosecution witness No.	Name of witnesses	Description
1	Mr. Chelladurai	Complainant

COMPLAINANT SIDE EXHIBITS

Exhibit No.	Description of the exhibit	Proved by
1	Cheque bearing No. 072213 drawn on TMB Bank, Gudalur Branch	PW1
2	Return Memo	PW1
3	Copy of Legal Notice	PW1
4	Postal Receipt	PW1
5	Acknowledgment Card	PW1

**DEFENCE SIDE WITNESSES:**

Sl. No	Particulars of witnesses	Description
Dw1 Mr.	Mrs. Renuka	Accused

DEFENCE SIDE EXHIBITS:

Nil

**PRINCIPAL DISTRICT MUNSIF -CUM-
JUDICIAL MAGISTRATE, GUDALUR.**

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