IN THE COURT OF THE JUDICIAL MAGISTRATE FAST TRACK COURT,

OMALUR, SALEM DISTRICT.

Present: S. SADHAMHUSAIN B.A., LLB.,
Judicial Magistrate, Fast Track Court, Omalur

Wednesday, the 29th day of July, 2026
S.T.C. No. 50 of 2020

STATEMENT AS PER RULE 106 OF CRIMINAL RULES OF PRACTICE, 2019		
1.	Serial Number of the Case	**S.T.C. No. 50/2020**
2.	Date of Offence	23.11.2018
3.	Name & Address of the Complainant	**Mrs. J. Selvi,** W/o Jeevanantham, Umblikampatty, Kadayampatty Taluk, Salem District.
4.	Name & Address of Accused	**Mr. P. Senthilkumar,** S/o.Perumal, 606/E, Railway Colony, Erode 638002.
5.	Offence Complained of	Dishonor of Cheque - Offence u/s.138 of the Negotiable Instruments Act.
6.	Date of occurrence	23.11.2018
7.	Date of Complaint	18.01.2019
8.	Plea of the Accused	Pleaded not guilty.
9.	Apprehension	Nil
10.	Release on bail	Nil
11.	Date of Commencement of trial	04.12.2020
12.	Closure of trial	07.05.2026
13.	Judgment	In result, the accused P. Senthilkumar s/o Perumal is found guilty for an offence under

		section 138 of the Negotiable Instruments Act, 1881 and hence the accused is **CONVICTED** under section 255(2) of the Code of Criminal Procedure, 1973.
14.	Sentence	In result, the accused **P.Senthilkumar, S/o Perumal is convicted for the offence u/s.138 Negotiable Instruments Act, 1881 and sentenced to undergo simple imprisonment for one year and to pay a compensation of Rs.4,45,000/- (Rupees Four lakhs forty five thousand)** to the complainant under section 357(3) of the Code of Criminal Procedure, 1973 within one month. In default of payment of the compensation, the accused shall undergo a further period of one month simple imprisonment as default sentence
15.	Service of copy of judgment or finding on accused	Yes. Copy of Judgment is forthwith furnished to the accused. u/s.363 of the Code of Criminal Procedure, 1973.
16.	Explanation of delay	At request of accused for settlement

This case came up for final hearing on 07.05.2026 in the presence of Advocate Mr.P.Kathiravan appearing for the Complainant and Advocate Mr.B.Sivaram, appearing for the accused, having stood over for consideration till this day, upon perusing the records and hearing both side arguments, this Court doth deliver the following:

JUDGEMENT

1. The complainant has filed this complaint U/s. 200 of the Code of Criminal Procedure, 1973 r/w Section 138 and 142 of the Negotiable Instruments Act, 1881 against the accused alleging that, the accused has committed the offence under Section 138 of the Negotiable Instruments Act and prayed for

awarding suitable punishment to the accused according to law and for award of compensation to him.

I. GIST OF THE COMPLAINT

2. The complainant's case is that she is the head of her family and manages its financial affairs. Her husband is an agriculturist and her two sons are practicing BHMS doctors. According to the complainant, the accused, an employee of the Indian Railways at Erode, was well acquainted with her for several years and had on earlier occasions borrowed money from her and repaid the same with interest. Owing to such acquaintance, on 18.10.2016, the accused allegedly borrowed a sum of Rs.4,00,000/- in cash from the complainant for purchasing a plot at Sankari, agreeing to repay the same on demand with interest at 12% per annum. It is further alleged that the accused executed a promissory note in favour of the complainant as security for the said loan.

3. It is the further case of the complainant that when she demanded repayment on 18.11.2018, the accused issued Cheque No.614809 dated 19.11.2018 for a sum of Rs.5,00,000/-, representing the principal amount of Rs.4,00,000/- together with Rs.1,00,000/- towards interest, drawn on State Bank of India, Erode Branch. At the time of issuing the cheque, the accused allegedly took back the promissory note from the complainant and assured her that sufficient funds were available in the account to honour the cheque.

4. On 19.11.2018, the complainant presented the cheque for collection through her banker. However, the cheque was dishonoured and returned unpaid on 23.11.2018 with the endorsement "Funds Insufficient." Thereafter, the complainant caused a statutory demand notice dated 05.12.2018 to be issued to the accused calling upon her to pay the cheque amount. Despite receipt of the notice, the accused neither replied to the notice nor complied with the demand.

Hence, alleging commission of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, the present complaint has been filed.

II. THE CASE OF THE ACCUSED IS AS FOLLOWS:

5. The defence of the accused is one of total denial. According to the accused, he never borrowed a sum of Rs.4,00,000/- from the complainant and the cheque in question was not issued towards discharge of any legally enforceable debt or liability. The accused would state that both he and the complainant are natives of Umblikkapatti Village, Kadayampatti Taluk, and that he has been working in the Indian Railways at Erode since 2013. According to him, the complainant was conducting chit and finance business, and in the year 2015, he and his father joined a chit for Rs.3,00,000/-. The accused claims that after receiving the chit amount, he regularly paid the subsequent instalments and, at the time of joining the chit, had handed over a signed blank cheque and a signed blank promissory note as security. Even after closure of the chit transaction, the complainant did not return the said documents, stating that they had been misplaced and would be returned if traced.

6. The accused further contends that after about two years, he received the statutory notice in respect of the dishonour of the cheque in question. According to him, the dispute was thereafter taken before the village elders for settlement. He specifically denies having borrowed Rs.4,00,000/- from the complainant on 18.10.2016, denies having met the complainant on 18.11.2018 or 19.11.2018 for repayment, and disputes the financial capacity of the complainant to advance the alleged loan. Hence, he prayed for dismissal of the complaint.

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III. SUBSTANCE OF ACCUSATION

7. On receipt of the complaint, affidavit and allied documents, prima facie case made out, cognizance was taken and summons was sent to the accused under section 204 of the Code of Criminal Procedure, 1973. The accused appeared on summons and the copies were furnished. When the substance of the accusation was explained to the accused under section 251 of the Code of Criminal Procedure. The accused understood the same and denied it and claimed to be put on trial.

IV. EVIDENCE ADDUCED BY THE COMPLAINANT

8. The complainant examined herself as P.W.1. The State Bank of India, Erode Branch Cheque bearing No:614809 dated 19.11.2018 for Rs.5,00,000/- was marked as Ex.P:1, The return memo of the aforesaid cheque bearing No:614809 was marked as Ex.P:2, Office Copy of the legal notice dated 05.12.2018 was marked as Ex.P:3, Acknowledgment card of the legal notice dated 08.12.2018 was marked as Ex.P:4. During the cross of D.W.1, the joint compromise memo entered between complainant and the accused dated 09.12.2020 was marked as Ex.P:5, joint memo dated 26.12.2024 acknowledging the payment of Rs.30,000/- to the complainant towards settlement was marked as Ex.P:6 and joint memo dated 20.05.2025 acknowledging the payment of Rs.25,000/- to the complainant towards settlement was marked as Ex.P:7.

V. EXAMINATION UNDER SECTION 313(1)(b) of the Code of Criminal Procedure 1973

9. The evidence on the complainant's side was closed with P.W.1. When the incriminating circumstances were explained to the accused under Section

313(1)b of the Code of Criminal Procedure 1973, the accused admitted the liability of Rs. 2,00,000/- and denied the others as false evidence.

VI. EVIDENCE ADDUCED BY THE ACCUSED

10. The Accused examined himself as D.W.1, Working certificate dated 08.12.2020 was marked as Ex.D.1, from 09.11.2023 to 21.10.2025 SBI bank statement of the accused was marked as Ex.D.2.Certificate of Encumbrance on property dated 06.11.2025 was marked as Ex.D.3.

VII. ARGUMENTS

11. Heard both sides. Perused the materials and documents available on record.

12. The counsel for the complainant argued that all the ingredients of the offence u/s.138 of Negotiable instruments Act are satisfied as proved through the documents exhibited on the side of the complainant and prayed for awarding maximum punishment and compensation. On the other hand, the defence counsel argued that the complainant has not established the existence of a legally enforceable debt or liability as on the date of issuance of the cheque and no independent witnesses have been examined to prove the delivery of cheque. It was further argued that the complainant has failed to prove his financial capacity to advance the alleged amount and that the statutory presumptions under Sections 118 and 139 of the Negotiable instruments Act stands rebutted by the circumstances brought on record during cross - examination. The learned defence counsel therefore prayed that the accused be acquitted of the charge under Section 138 of the Negotiable instruments Act.

VIII. The points for consideration are as follows:

I. Whether the complainant is entitled to the initial presumption under section 139 and 118 of the Negotiable Instruments Act 1881?

II. Whether the accused has rebutted the presumption under sections 118 and 139 of the Negotiable Instruments Act 1881?

III. Whether the accused is guilty of offence under section 138 of the Negotiable Instruments Act 1881?

Point No.1:

13. The complainant has filed this complaint alleging that the accused has committed the offence u/s.138 of the Negotiable instruments Act 1881. To attract the offence under section 138, the following conditions must have been satisfied:

- The accused should have drawn the cheque from the bank account maintained by him towards the payment of any amount of money to the complainant.
- The said cheque should have been drawn for the discharge, in whole or in part, of any debt or other liability.
- The alleged cheque should have been presented for encashment within a period of three months or before its validity whichever is earlier, from the date on which it was drawn.
- The cheque should have been returned by the bank unpaid, either because the amount of money standing to the credit of that account is insufficient to honor the cheque or it exceeds the agreed

arrangements made with the drawer account or for any other reason prescribed by law.

- After the dishonour, the complainant should have made a demand in writing for the payment of the amount mentioned in the cheque, within thirty days of information from the bank regarding the return of the cheque as unpaid.

- The accused should not have paid the said amount within fifteen days of the receipt of the demand notice.

14. In the present case, the complainant examined herself as P.W.1 and produced the cheque in question, which has been marked as Ex.P.1. The bank return memo showing that the cheque was returned unpaid with the endorsement "Funds insufficient" has been marked as Ex.P.2. The complainant has also produced the statutory notice dated 05.12.2018 as Ex.P.3 and the postal acknowledgment card evidencing receipt of the notice by the accused was marked as Ex.P.4.

15. In the absence of any specific denial regarding the signature and in the absence of any suggestion to that effect during cross-examination, the execution of the cheque is deemed to have been admitted. Once the execution of the cheque is admitted or not specifically disputed, the statutory presumption under Sections 118 and 139 of the Negotiable Instruments Act arises in favour of the complainant.

16. The Hon'ble Supreme Court in **Rangappa Vs. Sri Mohan [(2010) 11 SCC 441]** has held that the presumption under Section 139 of the Negotiable Instruments Act includes the presumption of existence of a legally

enforceable debt or liability. Therefore, once the issuance of cheque is established, the burden shifts upon the accused to rebut the presumption.

17. In view of the evidence of P.W.1 and the documents marked as Ex.P.1 to Ex.P.4, this Court is of the view that the complainant has established the foundational facts necessary to draw the statutory presumption under Sections 118 and 139 of the Negotiable Instruments Act. Hence, Point No.1 is answered in favour of the complainant.

Point No.2:

18. Section 139 of the Negotiable Instruments Act, under certain circumstances raises presumption in favour of the complainant in respect of the liability of the accused to him. It says as follows:

> ***Sec. 139 – Presumption in favour of the 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.*

19. Once the statutory presumption under Sections 118 and 139 of the Negotiable Instruments Act arises in favour of the complainant, the burden shifts upon the accused to rebut the said presumption by raising a probable defence.

20. It is well settled that the accused is not required to prove the defence beyond reasonable doubt. The accused can rebut the presumption by raising a probable defence on the standard on preponderance of probabilities. In this regard, the Hon'ble Supreme Court in **Kumar Exports Vs. Sharma Carpets [(2009) 2 SCC 513]** has held that the accused must bring on record such

facts and circumstances which would make the non-existence of consideration or debt so probable that a prudent man would act upon the same.

21. In the present case, the defence of the accused is that he never borrowed a sum of Rs.4,00,000/- from the complainant. According to him, the complainant was conducting chit and finance business and he, along with his father, joined a chit for Rs.3,00,000/- in the year 2015. At the time of joining the chit, he had handed over a signed blank cheque and a signed blank promissory note as security. It is his further case that after completion of the chit transaction, the complainant failed to return the said cheque and promissory note and subsequently misused the same by filing the present complaint.

22. To substantiate the said defence, the accused examined himself as D.W.1 and marked Ex.D.1, the working certificate issued by the Senior Section Engineer, Southern Railway. According to Ex.D.1, the accused was on duty on 18.11.2018 from 07.30 a.m. to 04.30 p.m. and on 19.11.2018 from 02.00 p.m. to 10.00 p.m. Relying upon the said document, it was contended that the accused could not have met the complainant on the above dates and therefore the case of the complainant is false.

23. On the other hand, P.W.1 has deposed that on 18.11.2018 she demanded repayment from the accused and the accused requested her to come to his house at Erode on the next day with the promissory note. She has further stated that on 19.11.2018 at about 3.00 p.m., she went to the house of the accused along with her son and that the accused, who was present there, issued the cheque in question after receiving back the promissory note. During her cross-examination, P.W.1 also stated that the accused's house is

situated about 1 kilometre from the railway gate. The relevant portion is extracted hereunder:

“19.11.2018 தேதியில் எதிரி என்னை புரோ நோட்டை எடுத்துக்கொண்டு ஈரோடுக்கு வரச்சொன்னார். நானும் என் இரண்டாம் மகனும் ஈரோடுக்கு சென்று இருந்தோம். அவரது வீடு ரயில்வே கேட்டில் இருந்து ஒரு கி.மீ. தொலைவில் எதிரியின் வீடு இருந்தது. அங்கே எதிரி மட்டும் இருந்தார். நாங்கள் சென்ற போது மதியம் மூன்று மணி இருக்கும்.

24. The accused has mainly relied upon Ex.D.1 to probabilise his plea of alibi. However, this Court is unable to accept the said contention. During the cross-examination of D.W.1, it was elicited that the attendance register was not produced before the Court. Though D.W.1 stated that Ex.D.1 was issued based on the attendance particulars, the certificate itself does not disclose that it was issued after verifying the attendance register or any other contemporaneous official record. The best evidence to substantiate the plea of alibi has not been produced before this Court.

25. Further, P.W.1 has specifically stated that the residence of the accused is situated only about one kilometre away from the railway gate. Therefore, the mere fact that Ex.D.1 mentions the duty hours of the accused is not sufficient to hold that the accused could not have met the complainant at his residence. The materials relied upon by the accused are not sufficient to probabilise the plea of alibi. Hence, the plea of alibi does not rebut the statutory presumption available in favour of the complainant.

26. Coming to the defence relating to the alleged chit transaction, except the interested testimony of D.W.1, no acceptable material has been produced to show that the complainant was conducting the alleged chit or that the cheque in question was issued only as security for such transaction. No document relating to the alleged chit has been produced. During the cross-examination, D.W.1 admitted that he was not aware of the particulars of the other subscribers to the alleged chit. Therefore, the defence of chit transaction remains a mere assertion without any independent corroboration.

27. The accused has also questioned the financial capacity of the complainant. In this regard, P.W.1 has deposed that she manages the financial affairs of her family, her husband is an agriculturist and she owns three cows. Except making suggestions during the cross-examination, no acceptable material has been placed by the accused to show that the complainant had no financial capacity to advance the loan. Mere suggestions in the cross-examination, without any supporting evidence, are not sufficient to rebut the statutory presumption.

28. Another circumstance which deserves consideration is the statement made by the accused during his examination under Section 313(1)(b) of the Code of Criminal Procedure. Though the defence throughout the trial is that there was no loan transaction between the parties and that the cheque was issued only as security in connection with the alleged chit transaction, the accused admitted the liability to the extent of Rs.2,00,000/-. It is true that the statement under Section 313(1)(b) of the Code of Criminal Procedure. cannot be treated as substantive evidence in favour of the complainant. However, the said admission can certainly be taken into consideration while appreciating the defence put forward by the accused. The said admission is inconsistent with the plea of complete

denial and also weakens the defence that the cheque was issued only in connection with the alleged chit transaction.

29. On an overall appreciation of the oral and documentary evidence, this Court is of the view that the accused has failed to raise a probable defence so as to rebut the statutory presumption available in favour of the complainant under Sections 118 and 139 of the Negotiable Instruments Act. The defence projected by the accused does not inspire confidence and is not supported by acceptable evidence. Hence, this Court holds that the statutory presumption has not been rebutted by the accused. **Accordingly, Point No.2 is answered against the accused.**

<u>Point No.3:</u>

30. In the present case, the complainant has produced the cheque in question as Ex.P.1. The said cheque when presented for collection was returned unpaid with the endorsement "Funds insufficient" as evidenced by Ex.P.2.

31. The complainant has issued the statutory notice dated 05.12.2018 demanding payment of the cheque amount and the same was received by the accused on 08.12.2018 as evidenced by Ex.P.3 and Ex.P.4. Even after receipt of the notice, the accused has neither sent any reply nor paid the cheque amount within the statutory period.

32. As already discussed under Point Nos.1 and 2, the complainant is entitled to the statutory presumption under Sections 118 and 139 of the Negotiable Instruments Act and the accused has failed to rebut the said presumption by raising a probable defence.

33. Therefore, this Court is of the considered view that the complainant has proved that the accused issued the cheque in question towards discharge of a legally

enforceable debt and the same was dishonoured and despite receipt of statutory notice the accused failed to pay the cheque amount within the stipulated time.

34. **Hence, this Court holds that the accused has committed the offence punishable under Section 138 of the Negotiable Instruments Act. Accordingly, Point No.3 is answered in favour of the complainant.**

IX. DECISION:

35. Having considered the entire evidence, documents and the submissions made by both counsels, this court concluded that the complainant has proved beyond reasonable doubt that the accused is **Guilty** an offence under section 138 Negotiable Instruments act, 1881 for the dishonour of the State bank of India, cheque bearing no. 614809 dated 19.11.2018 for Rs. 5,00,000/- (Rupees Five Lakhs) drawn by the accused in favour of the complainant.

X. SENTENCE

36. Upon conviction, the accused was heard on the question of sentence. Considering the facts and circumstances of the case and perusing **Ex.P.6 and Ex.P.7**, the accused has already paid a sum of **Rs.55,000/-** to the complainant during the pendency of the case. Hence, the said amount is given credit while fixing the compensation.

37. Accordingly, the accused **P. Senthilkumar, S/o. Perumal**, is convicted for the offence punishable under **Section 138 of the Negotiable Instruments Act, 1881**, and is sentenced under **Section 255(2) of the Code of Criminal Procedure, 1973** to undergo **Simple Imprisonment for one year**. The accused is further directed to pay a compensation of **Rs.4,45,000/- (Rupees Four Lakhs Forty Five Thousand only)** to the complainant under **Section 357(3) of the Code of Criminal Procedure, 1973**, within **one month** from the date of this Judgment. In default of

payment of compensation, the accused shall undergo **Simple Imprisonment for a further period of one month**.

38. No property was produced on both sides. Hence, no order relating to property is made.

This judgment was directly typed by me in my official laptop and after correcting the typographical errors, pronounced by me in the open Court on this 29th day of July 2026

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Judicial Magistrate,
Fast Track Court ,
Omalur.

LIST OF COMPLAINANT SIDE WITNESSES:

S.No	Witness	Name of Witness	Date of Examination
1.	P.W.1	Selvi	09.12.2020

LIST OF COMPLAINANT SIDE EXHIBITS:

S. No.	Exhibit	Date of exhibit	Description of Exhibit	Marked through
1.	Ex.P.1	19.11.2018	Cheque No.614809	P.W.1
2.	Ex.P.2	23.11.2018	Return memo	P.W.1
3.	Ex.P.3	05.12.2018	Legal Notice	P.W.1
4.	Ex.P.4	08.12.2018	Acknowledgment Card	P.W.1
5.	Ex.P.5	09.12.2020	Joint memo	D.W.1
6.	Ex.P.6	26.12.2024	Joint memo	D.W.1
7.	Ex.P.7	20.05.2025	Joint memo	D.W.1

LIST OF DEFENCE SIDE WITNESSES:

S.No	Witness	Name of Witness	Date of Examination
1.	D.W.1	Senthilkumar	07.10.2025

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LIST OF DEFENCE SIDE EXHIBITS: Nil

S. No.	Exhibit	Date of exhibit	Description of Exhibit	Marked through
1.	Ex.D.1	08.12.2020	Working certificate	D.W.1
2.	Ex.D.2	09.11.2023 to 21.10.2023	Bank Statement	D.W.1
3.	Ex.D.3	06.11.2025	Certificate of Encumbrance on property	D.W.1

LIST OF COURT SIDE EXHIBITS:Nil

Anexure: Case Summary
Note: -

1.No witness has been retained for more than three times.
2. Accused remained on bail at the time of trial.
3. Result of this case is informed to the concerned complainant.

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Judicial Magistrate,
Fast Track Court ,
Omalur.

CASE SUMMARY

S.No.	DESCRIPTION	REMARKS
1.	Period of remand of the accused	Nil
2.	The date of filing of the Complaint/final report in the Court	18.01.2019
3.	The date of committal of the case to the court of Session	Not applicable
4.	The date of questioning of the accused under Sections 251 of the Code of Criminal Procedure, 1973	04.12.2020
5.	Filing of all miscellaneous petitions and their results including the results on challenge before superior Courts; except routine petitions like petitions under Section 317 of the code	<table><tr><th>CMP No</th><th>Petition</th><th>Result</th></tr><tr><td>79/2022</td><td>Petition u/s.145(1) of NI Act</td><td>Dismissed</td></tr><tr><td>1611/2025</td><td>Petition u/s.348 BNS</td><td>Allowed</td></tr></table>
6.	Date of examination in-chief and cross-examination of a witness	<table><tr><td>Witness</td><td>Chief</td><td>Cross</td></tr><tr><td>P.W.1</td><td>09.12.2020</td><td>14.08.2021 15.03.2021</td></tr><tr><td>D.W.1</td><td>07.10.2025 06.11.2025</td><td>06.11.2025</td></tr></table>
7.	Date of examination of the accused under section 313(1)(b) of the code	25.09.2024
8.	Details of abscondence of an accused and his appearance/production, as the case may be	Nil
9.	Grant of stay by superior Courts and the results thereof	Nil

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