

**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

Friday, the 27th day of March, 2026

S.T.C. No. 56 of 2021

<u>STATEMENT AS PER RULE 106 OF CRIMINAL RULES OF PRACTICE, 2019</u>		
1.	Serial Number of the Case	S.T.C. No. 56/2021
2.	Date of Offence	11.09.2020
3.	Name & Address of the Complainant	N.Sivaperumal(45/2021) S/o Narayanan palpakki R.C.chettipatti post Salem District.
4.	Name & Address of Accused	G.Saravanan(50/2021) S/o Gopala Gounder opp.to Balamurugan Arts and Science College Sathapadi Sathapadi village and post Mettur taluk Salem District.
5.	Offence Complained of	Dishonor of Cheque - Offence u/s.138 of the Negotiable Instruments Act.
6.	Date of occurrence	10.07.2020
7.	Date of Complaint	11.09.2020
8.	Plea of the Accused	Pleaded not guilty.

JUDGMENT in S.T.C.No: 56/2021

9.	Apprehension	Nil
10.	Release on bail	Nil
11.	Date of Commencement of trial	22.12.2021
12.	Closure of trial	27.03.2026
13.	Judgment	In result, the accused Saravanan S/o Gopalagoundar is found “NOT GUIILTY” under section 278(1) BNSS for the offence under section 138 of Negotiable Instruments act and acquitted accordingly.
14.	Explanation for delay	Warrant pending against accused for more than two years.

This case came up for final hearing on 27.03.2026 in the presence of Advocate Mr.T.Ranganathan appearing for the Complainant and Advocate Mr.P.Kathiravan, 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 Cr.P.C 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 NI 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. Accused is the complainant's family friend and he is well known to the complainant. In that relation, the accused has approached the complainant and asked financial help for his business purposes and family expenses for which, the complainant has also agreed to give the amount which the accused asked for. On 01.03.2020, the accused is said to have borrowed a sum of Rs.3,00,000/- from the complainant, for repayment of the said amount, the accused has issued a post-dated complainant, bearing No.869350 drawn on Indian Bank, Mecheri branch in favour of the complainant on the same day. The accused allegedly assured the complainant that the cheque could be presented for collection and that sufficient funds would be maintained to honour the cheque.
3. Acting on such assurance, the complainant presented the cheque for collection on 09.07.2020 through his bank, IDBI Bank, omalur branch. The cheque was returned on 10.07.2020 unpaid with the endorsement "Funds Insufficient". The complainant states that the accused had issued the cheque knowing fully well that the account was not maintained with sufficient funds thereby causing wrongful loss to the complainant and attempting to obtain unlawful gain.
4. Following the dishonour, the complainant issued a statutory notice to the accused on 03.08.2020, calling upon him to pay the cheque amount within fifteen days. The accused has received the said notice on 04.08.2020. But the accused has neither complied with the complainant's legitimate demand made in

the notice, nor replied. According to the complainant, the conduct of the accused in issuing a cheque from an account that was Funds Insufficient, without maintaining sufficient funds and without making payment even after statutory demand, constitutes an offence under Sections 138 and 142 of the Negotiable Instruments Act, 1881.

II. THE CASE OF THE ACCUSED IS AS FOLLOWS:

5. The accused never borrowed any amount from the complainant. The accused denied the liability as well as issuance of subject cheque for its discharge. According to him, the complainant is totally a stranger to him. He never issued a cheque to the complainant.

III.SUBSTANCE OF ACCUSATION:

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

IV. EVIDENCE ADDUCED BY THE COMPLAINANT:

7. The complainant examined himself as P.W.1. and Ex. P1 to Ex. P4 was marked through him. Ex. P1 is cheque bearing no. 869350 dated 09.07.2020, Ex.P2 is return memo dated 10.07.2020 Ex.P3 is Legal notice sent by complainant to the accused dated 03.08.2020, Ex.P4 is postal return cover dated 04.08.2020.

V. EXAMINATION UNDER SECTION 313(1)(b) OF THE CRIMINAL PROCEDURE CODE:

8. 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) Cr.P.C., the accused denied the same as false evidence and further stated that he has paid all dues. No witnesses have been examined on behalf of the accused.

VI The points for consideration are as follows:

9. In this case, the primary point that arises for determination is whether the cheque in question was issued by the accused to the complainant towards a legally enforceable debt or liability.

VII. DISCUSSION:

10. Heard both sides. Records perused.

11. It is a settled position of law that once the complainant proves the foundational facts, the presumption under Section 139 of the Negotiable Instruments Act must be drawn by the Court to the effect that the cheque was issued by the accused towards a legally enforceable debt. This legal position has been consistently reiterated by the Hon'ble Supreme Court in several decisions.

12. The essential requirements for attracting Section 138 N.I. Act are as follows:

- The cheque in question must have been drawn by the accused and must pertain to his bank account.

- The cheque must have been issued in discharge of a legally enforceable debt or liability.
- The cheque must have been issued, wholly or partly, towards the discharge of such debt or liability.
- The cheque must have been returned unpaid due to insufficiency of funds or any other reason indicated in law, such as “Account Closed”.
- A statutory demand notice must have been issued within the prescribed period, and despite receipt of such notice, the accused must have failed to pay the cheque amount within 15 days.

13. In the present case, Ex.P1 cheque has been admitted by the accused as one drawn on his bank account, and the signature appearing on the cheque is also admitted to be his. There is no dispute between the parties on these aspects. Therefore, as regards Ex.P1 cheque, the statutory presumption under Sections 118 and 139 of the Negotiable Instruments Act (initial presumption) operates that the cheque was issued by the accused towards a legally enforceable debt.

14. Since the presumption under Sections 118 and 139 is a rebuttable presumption, it is necessary to examine whether the accused has rebutted the same by placing sufficient oral or documentary evidence. The burden lies on the accused to rebut the statutory presumption by raising a probable defence. Even during his examination under Section 313(1)(b) Cr.P.C., though the accused stated that he has a defence and that he has evidence to support his case, no oral or documentary evidence was produced on behalf of the accused.

15. During the course of trial, both parties submitted that the dispute has been amicably settled between them and filed joint compromise memo. It was also stated that the complainant has received the cheque amount from the accused and that the complainant has no objection for the accused being acquitted from this case. Both parties have filed a joint memo to that effect.

16. Since an offence under Section 138 of the Negotiable Instruments Act is compoundable, and since the parties have voluntarily arrived at a settlement without any coercion and the complainant has acknowledged receipt of the cheque amount and raised no objection for acquittal of the accused, this Court is required to consider the said memo favourably.

17. Hon'ble Apex Court in **GIAN CHAND GARG VS HARPAL SINGH & ANR** it was stated that

“10. Therefore, it is very clear that although dishonour of cheque entails criminal consequence, the legislature by virtue of section 147 of the NI Act has made it compoundable notwithstanding the provisions of the Code of Criminal Procedure, 1973 and the same can be compounded at any stage of the proceedings especially when the parties have themselves arrived at a voluntary compromise.

11. In the present case, the compromise deed dated 06.04.2025 and the Affidavit on behalf of the Respondent No.1 dated 16.04.2025 is annexed to the present petition as Annexure P3 and P6, respectively. Upon careful perusal of the recitals contained in the said documents, it clearly emerges that the Respondent No.1 in consideration of Two Demand Drafts bearing no(s). 004348 dated 04.04.2025 and 004303 dated

11.02.2025 for Rs. 2.5 lakhs each along with three cheques bearing no(s). 354412 dated 10.05.2025, 354413 dated 10.06.2025 and 354414 dated 10.07.2025 of Rs.1 lakh each has arrived at a compromise with appellant without any coercion and at his own will and voluntarily. Once the complainant has signed the compromise deed accepting the amount in full and final settlement of the default sum the proceedings under Section 138 of the NI Act cannot hold water, therefore, the concurrent conviction rendered by the Courts below has to be set-aside”

18. Taking into consideration that the parties have entered into a settlement and that the complainant has expressly stated in the joint memo that he has no objection to the accused being acquitted from this case, and further considering the legal position laid down by the Hon’ble Supreme Court permitting compounding of offences under the Negotiable Instruments Act, this Court accepts the settlement arrived at between the parties and holds that the accused is entitled to be acquitted from this case.

VIII.RESULT:

- 19.In the result, this Court holds that the accused is not guilty of the offence under Section 138 of the Negotiable Instruments Act, and accordingly, the accused is acquitted under Section 255(1) of the Code of Criminal Procedure.**

No property was produced on both sides. Hence no order relating to property is made under section 452 of Criminal procedure code, 1973.

JUDGMENT in S.T.C.No: 56/2021

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 27th day of March 2026.

Sd/.S.Sadhamhusain,
Judicial Magistrate,
Fast Track Court,
Omalur.

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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	Sivaperumal	22.12.2021

LIST OF COMPLAINANT SIDE EXHIBITS:

S. No.	Exhibit	Date of exhibit	Description of Exhibit	Marked through
1	Ex.P.1	09.07.2020	Cheque No.869350 issued by the accused in favour of complainant	P.W.1
2	Ex.P.2	10.07.2020	Cheque No.869350 in Return memo	P.W.1
3	Ex.P.3	03.08.2020	Legal Notice issued to the accused	P.W.1
4	Ex.P.4	04.08.2020	Acknowledgment Card	P.W.1

LIST OF DEFENCE SIDE WITNESSES:Nil

LIST OF DEFENCE SIDE EXHIBITS:

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.

Sd/.S.Sadhamhusain,
Judicial Magistrate,
Fast Track Court,
Omalur.

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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	11.09.2020		
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	07.10.2021		
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	CMP No	Petition	Result
		Nil		
6.	Date of examination in-chief and cross-examination of a witness	Witness	Chief	Cross
		P.W.1	22.12.2021	
7.	Date of examination of the accused under section 351 of BNSS.	09.10.2025		
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		

Sd/.S.Sadhamhusain,
Judicial Magistrate,
Fast Track Court,
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