IN THE COURT OF FAST TRACK, KARAIKUDI,SIVAGANGAI DISTRICT.
PRESENT:THIRU.S.A.VALLI MANALAN,B.A.,B.L.,(Hons), L.L.M.,
Judicial Magistrate,
Fast Track Court at Magisterial Level,
Karaikudi.
Dated at this Wednesday the 12th day of August, 2026
Calender Case.No.87 of 2021
CNR No. TNSV12 –000484 -2021

L.Venkatesh,(43/2026),

S/o.Lakshmanan,

TKR Illam, TKR Veethi,

Kanadukathan ,

Karaikudi Taluk,

Sivagangai District .... Complainant

\Vs/

P.Valli, (40/2026),

W/o.Pandiyan,

South Residence,

Kothamangalam,

Lakshmipuram,-630105 post,

Karaikudi Taluk,

Sivagangai District. …….. Accused

This case was taken on file before this court and numbered as C.C.No.87 of 2021 and came up for final hearing before me on 05.08.2026 in the presence of

Thiru.MS.Padmanabhan, the learned counsel for the complainant and Tmt.N.Priya the learned counsel for the accused and upon hearing the arguments on either sides and perusing all the connected materials, having stood over for consideration till this day, this court deliver the following:

JUDGMENT

1. The Complainant has filed the present complaint against the accused for the offence arising out of the dishonour of cheque bearing No.547595 dated 09.03.2021, drawn on Vijaya Bank, Kothamangalam Branch, for a sum of Rs.2,00,000/-. When the complainant presented the aforesaid cheque for encashment, the same was returned unpaid. The dishonour of the cheque and the subsequent failure of the accused to make payment within the statutory period constitute offences punishable under Sections 138 and 142 of the Negotiable Instruments Act, 1881.

2. **Case of the Complainant in Brief as follows;-**

i) The complainant stated that the accused mentioned above is a person of good character and on that basis the accused requested the complainant to take a loan of Rs.2,00,000/- (Rupees Two Lakhs only) interest on 05.02.2021 for his urgent family needs and to repay the amount within a month. the complainant lent Rs.2,00,000/-in cash at 1% interest to the accused on 07.02.2021 from his house. He has agreed to pay interest of Rs.1% per month on Rs.100/- signed a completed promissory note for Rs.2,00,000/-.

ii) Thereafter the complainant, as already discussed with the accused, met the accused in person after a period of one month and asked him to repay the principal amount of Rs.2,00,000/- and the interest amount, but the accused paid only the interest amount of Rs.2,000/- on the principal and as a means of repaying the principal, deposited the cheque bearing No.547595 dated on 09.03.2021 of Vijaya Bank, Kothamangalam Branch in the accused bank account.

iii) Accordingly, the complainant presented the said cheque on 09.03.2021 through his banker, Indian Overseas Bank, Kanadukathan Branch. The said cheque was returned unpaid on 18.03.2021 with an endorsement Account Blocked. Thereafter, the complainant caused a statutory legal notice dated 27.03.2021 regarding the dishonour of the cheque given by the accused. The notice received the accused on 30.03.2021. Hence, the accused has wilfully committed an offence punishable under Section 138 of the Negotiable Instruments Act, 1881. Therefore, the complainant has filed the present complaint seeking to punish the accused in accordance with law and to grant such other reliefs.

3. On finding a prima facie case against the accused, he was summoned and Consequent to the service of summons, the accused entered his appearance and was

questioned under section 251 of the C.r.P.C on 22.10.2021 to which the accused pleaded not guilty and claimed for trial.

4. To prove his case, the complainant has examined himself as PW1 by way of affidavit and has marked the following documents.

a) Promissory Note Dated: 07.02.2021 as Ex.P.1

b) Cheque with No.547595 dated 09.03.2021 drawn on Vijaya Bank, Kothamangalam Branch, for Rs.2,00,000/- as Ex.P2

c) Cheque Return Memo dated 18.03.2021 as Ex.P3.

d) Legal Notice with postal receipt dated 27.03.2021 as Ex.P4.

e) Acknowledgment Card as Ex.P5.

f) Indian Overseas Bank Account Statement period of 01.02.2021 to 28.02.2022 as Ex.P6

The complainant was cross-examined by the Learned Counsel for the accused and the complainant's evidence was closed.

5. The Statement of accused was recorded under Section 313 read with Section 281 of the Code on 10.07.2023 and all the incriminating circumstances were put to him to enable him to offer an explanation. The accused denied all the evidence as false and stated that it is a false complainant. He also stated that he wishes to lead defence evidence.

6. Then the matter was listed for defence evidence. Then, this court has closed the defence side Evidence. Arguments heard from both the parties.

7. Final arguments have been heard on behalf of both the parties. The matter was then reserved for judgment. The submissions made on behalf of both the parties and the judgments relied on by both the parties have been considered. The records of the case has been carefully perused.

8. In order to ascertain whether the accused has committed the offence under Section 138 of the NI Act, it is deemed fit to examine separately as to whether all the indispensable ingredients constituting the offence have been proved by the complainant. The offence under Section 138 of the NI Act has the following ingredients:-

a) The cheque has been drawn on an account maintained by a person in a bank for payment of a certain amount of money to another person from out of that account;

b) The cheque has been issued for the discharge, in whole or in part, of any legal and enforceable debt or other liability;

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c) That cheque has been presented to the bank within a period of three months from the date on which it is drawn or within the period of its validity whichever is earlier;

d) That cheque has been 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;

e) The payee or the holder in due course of the cheque has made 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; and

f) 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. Being cumulative, it goes without saying that it is only when all the aforementioned 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. Presentation of the impugned cheque for encashment and dishonour of the impugned cheques for the reason “Account Blocked” is not disputed as it is a matter of record proved by the return memo which is Ex.P3. The accused has not disputed

that the impugned cheque bears his signature. The legal notice was served upon the accused but no payment was made despite the service. Finally, the complaint has been filed within the limitation period. Therefore, essential ingredients have been duly satisfied.

10. Before proceeding to the merits of the case, it is considered important to lay down the basic provisions of law with respect to section 138 of the Act which are as follows:

Section 138 of Negotiable Instruments Act, 1881 makes dishonour of cheques an offence. It provides that "where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that 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 that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provisions of this Act, be punished with imprisonment for a term which may be extended to two years, or with fine which may extend to twice the amount of the cheque, or with both".

11. Careful reading of section 138 of the Act reflects that there are three key ingredients which need to exist in order to constitute an offence therein. The three ingredients were highlighted by the Hon'ble Supreme Court in the case of "**Krishna Janardhan Bhat v. Dattatraya G. Hegde AIR 2008 SC 1325**" wherein the Apex Court held that the procedural requirements of section 138 are:

i)There is a legally enforceable debt.

ii)The drawer of the cheque issued the cheque to satisfy part or whole of the debt.

ii)The cheque so issued has been returned due to insufficiency of funds.

12. It is a well settled principle of criminal jurisprudence that a criminal trial proceeds on the presumption of innocence of the accused i.e. an accused is presumed to be innocent unless proved guilty. Thus, normally the initial burden to prove the guilt of the accused lies on the complainant/prosecution Also, the standard of proof is beyond reasonable doubt. However, in offences under section 138 of the Act, there is a reverse onus clause contained in sections 118 and 139 of the Act.

<u>Presumption in favour of the Complainant:-</u>

13. Section 118(a) of the Act provides that until the contrary is proved, it **shall be presumed** that "that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, endorsed,

negotiated or transferred, was accepted, endorsed, negotiated or transferred for consideration."

14. Further, Section 139 of the Act lays down that "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."

15. On bare reading of these provisions, it becomes clear that the court shall presume the execution of a negotiable instrument for consideration unless and until the contrary is proved. Similarly, the Court shall also draw a presumption in favour of the complainant/holder of the cheque that the said cheque has been issued in discharge of legally enforceable debt or other liability.

<u>Rebuttable Presumption:-</u>

16. There is a statutory presumption under section 139 of the act which arises in the favour of the complainant. This presumption is rebuttable and the accused is required to raise a probable defence. Burden of proof is hence upon the accused in such cases. Reliance can be placed on the decision of the Hon'ble Supreme Court in the case of "**M.S Narayan Menon vs. State of Kerala (2006) 6 SCC 39**", wherein

the Hon'ble Court has discussed in detail the scope and ambit of statutory presumption under section 118 read with section 139 of the Act. The relevant extract of the judgment is reproduced below:

"*Applying the said definitions of 'proved' or 'disproved' to principle behind Section 118(a) of the Act, the Court shall presume a negotiable instrument to be for consideration unless and until after considering the matter before it, it either believes that the consideration does not exist or considers the non-existence of the consideration so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that the consideration does not exist. For rebutting such presumption, what is needed is to raise a probable defence. Even for the said purpose, the evidence adduced on behalf of the Complainant could be relied upon*"

Rebuttable standard of proof upon Preponderance of Probability:-

17. Further, it is also a settled proposition of law that the standard of proof which is required from the accused to rebut the statutory presumption under section 118 read with section 139 of the Act is preponderance of probabilities. The accused is not required to prove his case beyond reasonable doubt. This onus on the accused can be discharged from the materials available on record and from the circumstantial evidence. The Hon'ble Supreme Court in **M.S Narayan Menon case (supra)** has inter alia held the following:

"The standard of proof evidently is the preponderance of probabilities. Inference of preponderance of probabilities can be drawn not only from the materials on record but also by reference to the circumstances upon which he relies"

18. Further as discussed above, it should also be noted that the standard of proof in order to rebut the statutory presumption may be inferred from the materials on record and circumstantial evidences. It is not always mandatory for the accused to examine its own witnesses in order to rebut the said statutory presumption. At this point, reliance may be placed on the decision of the Hon'ble Supreme Court in the case of **Krishna Janardhan Bhat (supra)**, wherein the Hon'ble Court has categorically held the following:

"32. accused for discharging the burden of proof placed upon him under a statute need not examine himself. He may discharge his burden on the basis of the materials already brought on record. The accused has a constitutional right to remain silent. Standard of proof on the part of an accused and that of the prosecution in a criminal case is different…

34. Furthermore, whereas prosecution must prove the guilt of an accused beyond all reasonable doubt, the standard of proof so as to prove defence on the part of an accused is "preponderance of probabilities". Inference of preponderance of probabilities 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."

19. This principle has been reiterated by the Hon'ble Supreme Court [3 Judge Bench] in the case of "**Rangappa Vs. Sri Mohan (2010) 11 SCC 441**" wherein the Apex Court dealt about the rebuttable presumption and Preponderance of Probability in Cheque dishonour proceeding:-

"27. Section 139 of the Act is an example of a reverse onus clause that has been included in furtherance of the legislative objective of improving the credibility of negotiable instruments. While Section 138 of the Act specifies a strong criminal remedy in relation to the dishonour of cheques, the rebuttable presumption under Section 139 is a device to prevent undue delay in the course of litigation. However, it must be remembered that the offence made punishable by Section 138 can be better described as a regulatory offence since the bouncing of a cheque is largely in the nature of a civil wrong whose impact is usually confined to the private parties involved in commercial transactions In such a scenario, ***the test of proportionality should guide the construction and interpretation of reverse onus clauses and the defendant accused cannot be expected to discharge an unduly high standard or proof****.*

*28. In the absence of compelling justifications, reverse onus clauses usually impose an evidentiary burden and not a persuasive burden. Keeping this in view, it is a settled position that when an accused has to rebut the presumption under Section 139, the standard of proof for doing so is that of *preponderance of probabilities". Therefore, if the accused is able to raise a probable defence which creates doubts about the existence* *of a legally enforceable debt or liability, the prosecution can fail. As clarified in the citations,* ***the accused can rely on the materials submitted by the complainant in order to raise such a defence and it is conceivable that in some cases the accused may not need to adduce evidence of his/her own”***.

20. Thus, section 139 of the Act puts the burden on the accused to prove his defence. However, the accused has to prove his defence on the balance of probabilities and not beyond reasonable doubt. Accused can prove his defence by drawing inferences from the materials already on record (including complainant's evidences), circumstances of the case and also leading his own evidences. If the accused successfully creates doubts in the complainant's claim about the existence of legally enforceable debt then the burden of proof shifts back to the complainant who is required to prove the guilt of the accused beyond reasonable doubt. Reference can be taken from the decision of the Hon'ble Supreme Court in the case of “**Bharat Barrel & Drum Manufacturing Company vs. Amin Chand Pyarelal 1999 (3) SCC 35”**, wherein it has held the following:

"*12. Upon consideration of various judgments as noted hereinabove, the position of law which emerges is that once execution of the promissory note is admitted, the presumption under Section 118(a) would arise that it is supported by a consideration. Such a presumption is rebuttable. The defendant can prove the non-existence of a consideration by raising a probable defence. If the defendant is proved to have* *discharged the initial onus of proof showing that the existence of consideration was improbable or doubtful or the same was illegal, the onus would shift to the plaintiff who will be obliged to prove it as matter of fact and upon its failure to prove would disentitle him to the grant of relief on the basis of the negotiable instrument.* ***The burden upon the defendant of proving the non-existence of the consideration can be either direct or by bringing on record the preponderance of probabilities by reference to the circumstances upon which he relies. In such an event, the plaintiff is entitled under law to rely upon all the evidence led in the case including that of the plaintiff as well****. In case, where the defendant fails to discharge the initial onus of proof by showing the non-existence of the consideration, the plaintiff would invariably be held entitled to the benefit of presumption arising under Section 118(a) in his favour.* ***The court may not insist upon the defendant to disprove the existence of consideration by leading direct evidence as the existence of negative evidence is neither possible nor contemplated*** *and even if led, is to be seen with a doubt. 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 plaintiff.* ***To disprove the presumption, the defendant has to bring on record such facts and circumstances upon consideration of which the court may either believe that the consideration did not exist or its non-existence was so probable that prudent man would, under the circumstances of the case, shall act upon the plea that it did not exist.***"

21.As clarified in the citations, the accused can rely on the materials submitted by the complainant in order to raise such a defence and it is conceivable that in some cases the accused may not need to adduce evidence of his/her own. Also to disprove the presumption, the defendant has to bring on record such facts and circumstances upon consideration of which the court may either believe that the consideration did not exist or its non-existence was so probable that prudent man would, under the circumstances of the case, shall act upon the plea that it did not exist.

22. Thus, as laid down in the catena of decisions, it is an established law that onus lies upon the accused to rebut the presumption and to establish that the cheque in question was not given in respect of any debt or liability, with the standard of proof being preponderance of probabilities. Therefore, it is critical to examine whether the explanation of the accused coupled with the evidence on record is sufficient to dislodge the presumptions envisaged by Sections 118 and 139 of the NI Act.

23. Learned Counsel for defence submitted the following defences:-

(i) The Accused had borrowed money from one Mr.Solaimurugan.

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(ii) The Accused had issued cheque and promissory note to one Mr.Solaimurugan and the same was misued through the present complainant.

(iii) The Accused is not legally liable to pay the case cheque amount.

24. This Court has to consider whether the defence taken by the Accused rebutts the presumption which favors the Complainant. To deal with the same this court discusses the issue one by one, as follows

25. Issue as to issuance of blank cheque:-

25.1 It is pertinent at this point to have a look at the following judgment of the Hon'ble Supreme Court. Hon'ble Supreme Court in the case of "**Bir Singh vs. Mukesh Kumar (2019) 4 SCC 197"** wherein the Apex Court while upholding the validity of blank signed cheque and post-dated cheque in a proceeding u/s 138 of the Act has inter alia held the following:

"*36. The proposition of law which emerges from the judgments referred to above is that the onus to rebut the presumption under Section 139 that the cheque has been issued in discharge of a debt or liability is on the accused and the fact that the cheque might be* ***post dated does not absolve the drawer of a cheque of the penal consequences of Section 138*** *of the Negotiable Instruments Act.*

37. A meaningful reading of the provisions of the Negotiable Instruments Act including, in particular, ***Sections 20, 87 and 139, makes it amply clear that a person who signs a cheque and makes it over to the payee remains*** *liable unless he adduces evidence to rebut the presumption that the cheque had been issued for payment of a debt or in discharge of a liability.* ***It is immaterial that the cheque may have been filled in by any person other than the drawer, if the cheque is duly signed by the drawer****. If the cheque is otherwise valid, the penal provisions of Section 138 would be attracted.*

38. If a ***signed blank cheque is voluntarily presented to a payee, towards some payment****, the payee may fill up the amount and other particulars. This in* ***itself would not invalidate the cheque****. The onus would still be on the accused to prove that the cheque was not in discharge of a debt or liability by adducing evidence.*"

25.2 Accused had not disputed his signature in the cheque. It is established law that the presumption of legally enforceable debt as under section 139 will not be affected for the reason that the accused had issued a blank cheque without disputing signatures on it. Blank cheque can also be accepted as under section 20 of Negotiable Instrument Act.

26. Issue as to issuance of Cheque for security purpose:-

26.1 Learned Counsel for the Accused argued that the impugned cheque is issued for security purpose. It is pertinent to refer the judgment of Hon'ble Supreme Court in "**Dashrathbhai Trikambhai Patel Vs. Hitesh Mahendrabhai Patel & Anr 2022 LiveLaw (SC) 830"**, where the Hon'ble Apex Court dealt with the issue of issuance of cheque for surety purpose as follows.

"*12. It must be noted that when a part-payment is made after the issuance of a post-dated cheque, the legally enforceable debt at the time of encashment is less than the sum represented in the cheque. A part-payment or a full payment may have been made between the date when the debt has accrued to the date when the cheque is sought to be encashed. Thus, it is crucial that we refer to the law laid down by this Court on the issuance of post- dated cheques and cheques issued for the purpose of security. In* ***Indus Airways Private Limited v. Magnum Aviation Private Limited (2014) 12 SCC 539****, the issue before a two-Judge Bench of this Court was whether dishonour of post-dated cheques which were issued by the purchasers towards 'advance payment' would be covered by Section 138 of the Act if the purchase order was cancelled subsequently. It was held that Section 138 would only be applicable where there is a legally enforceable debt subsisting on the date when the cheque is drawn. In* ***Sampelly Satyanarayana Rao v. Indian Renewable Energy Development Agency Limited (2016)10SCC 458****, the respondent advanced a loan for setting up a power project and post-dated cheques were given for security. The cheques were dishonoured and a complaint was instituted under Section 138. Distinguishing* ***Indus Airways***

***(supra)**, it was held that the test for the application of Section 138 is whether there was a legally enforceable debt on the date mentioned in the cheque. It was held that if the answer is in the affirmative, then the provisions of Section 138 would be attracted. In **Sripati Singh v. State of Jharkand 2021 SCC OnLine SC 1002**, this Court observed that if a cheque is issued as security and if the debt is not repaid in any other form before the due date or if there is no understanding or agreement between the parties to defer the repayment, the cheque would mature for presentation:*

"17. A cheque issued as security pursuant to a financial transaction cannot be considered as a worthless piece of paper under every circumstance. 'Security' in its true sense is the state of being safe and the security given for a loan is something given as a pledge of payment. It is given, deposited or pledged to make certain the fulfilment of an obligation to which the parties to the transaction are bound. ***If in a transaction, a loan is advanced and the borrower agrees to repay the amount in a specified timeframe and issues a cheque as security to secure such repayment; if the loan amount is not repaid in any other form before the due date or if there is no other understanding or agreement between the parties to defer the payment of amount, the cheque which is issued as security would mature for presentation and the drawee of the cheque would be entitled to present the same.*** *On such presentation, if the same is dishonoured, the consequences contemplated under Section 138 and the other provisions of N.I. Act would flow.*

18. When a cheque is issued and is treated as 'security' towards repayment of an amount with a time period being stipulated for repayment, all that it ensures is that such cheque which is issued as 'security' cannot be presented prior to the loan or the instalment maturing for repayment towards which such cheque is issued as security. Further, ***the borrower would have the option of repaying the loan amount or such financial liability in any other form and in that manner if the amount of loan due and payable has been discharged within the agreed period, the cheque issued as security cannot thereafter be presented. Therefore, the prior discharge of the loan or there being an altered situation due to which there would be understanding between the parties is a sine qua non to not present the cheque which was issued as security.*** *These are only the defences that would be available to the drawer of the cheque in a proceedings initiated under Section 138 of the N.I. Act. Therefore, there cannot be a hard and fast rule that a cheque which is issued as security can never be presented by the drawee of the cheque. If such is the understanding a cheque would also be reduced to an 'on demand promissory note' and in all circumstances, it would only be a civil litigation to recover the amount, which is not the intention of the statute. When a cheque is issued even though as 'security' the consequence flowing therefrom is also known to the drawer of the cheque and in the circumstance stated above if the cheque is presented and dishonoured, the holder of the cheque/drawee would have the option of initiating the civil proceedings for recovery or* *the criminal proceedings for punishment in the fact situation, but in any event, it is not for the drawer of the cheque to dictate terms with regard to the nature of litigation."*

(emphasis supplied)

Based on the above analysis of precedent, the following principles emerge:

(i) Where the borrower agrees to repay the loan within a specified timeline and ***issues a cheque for security but defaults in repaying the loan within the timeline****, the cheque matures for presentation. When the cheque is sought to be encashed by the debtor and is dishonoured,* ***Section 138 of the Act will be attracted;***

(ii) However, the cardinal rule when a cheque is issued for security is that between the date on which the cheque is drawn to the date on which the cheque matures, the loan could be repaid through any other mode. It is only where the loan is not repaid through any other mode within the due date that the cheque would mature for presentation; and

(iii) If the loan has been discharged before the due date or if there is an 'altered situation', then the cheque shall not be presented for encashment".

26.2 From the Judgment of the Hon'ble Apex Court in **Dashrathbhai Trikambhai Patel (supra)** it is clear that the Section 138 of NI Act will be attracted even if the cheque was issued for security and if the amount was left unpaid.

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<u>Whether the Accused is liable for the case cheque amount is decided as follows:-</u>

27. The complainant stated that the accused mentioned above is a person of good character and on that basis the accused requested the complainant to take a loan of Rs.2,00,000/- (Rupees Two Lakhs only) interest on 05.02.2021 for his urgent family needs and to repay the amount within a month. the complainant lent Rs.2,00,000/-in cash at 1% interest to the accused on 07.02.2021 from his house. He has agreed to pay interest of Rs.1% per month on Rs.100/- signed a completed promissory note for Rs.2,00,000/-. Thereafter the complainant, as already discussed with the accused, met the accused in person after a period of one month and asked him to repay the principal amount of Rs.2,00,000/- and the interest amount, but the accused paid only the interest amount of Rs.2,000/- on the principal and as a means of repaying the principal, deposited the cheque bearing No.547595 dated on 09.03.2021 of Vijaya Bank, Kothamangalam Branch in the accused bank account.

28. Important portion of the cross-examination of the Complainant as follows:-

1*எதிரியை எனக்கு கடன் கொடுத்ததாக சொல்லப்படும் தேதியிலிருந்து 5,6 வருடங்களுக்கு முன்பே தெரியும் என்றால் சரிதான்.

2* எதிரியுடனான பழக்கத்தில் நான் அவர் வீட்டுக்கு சென்று வருவேன் என்றால் சரிதான்.

3* மேற்படி கடனை எதிரிக்கு எனது வீட்டில் வைத்து 07.02.2021 அன்று கொடுத்தேன்.

4*மேற்படி எதிரிக்கு கொடுக்கப்பட்டதாக சொல்லப்படும் கடனை ஒரு வட்டிக்கு கொடுத்தேன், வட்டி ஏதும் எடுக்காமல் முழுத்தொகையும் கொடுத்தேன். மேற்படி கடனை வட்டி எடுக்காமல் கொடுத்தது நம்பும்படியாக இல்லை என்றால் சரியல்ல பழக்கத்தின் அடிப்படையில் முழுவதுமாக கொடுத்தேன். எனது நண்பர் எதார்த்தமாக எனது வீட்டில் இருந்தார், அந்த சமயத்தில் எதிரி என் விட்டிற்கு வந்ததால் கடனுறுதிச்சீட்டில் கையெழுத்து மட்டும் போட்டுக் கொடுத்தார். 06.03.2021ம் தேதி எதிரிக்கு கொடுத்ததாக சொல்லப்படும் கடனை அவரிடம் திரும்ப கேட்டேன். எதிரி கடந்த 09.03.2021ம் தேதியன்று வட்டித்தொகையாக ரூ.2000/-கொடுத்து விட்டு அசலுக்கு விஜயா வங்கி காசோலையை என் முன்பாகவே எதிரியே முழுவதுமாக பூர்த்தி செய்து கொடுத்தார்.

5* 06.03.2021அன்றே ஏன் காசோலை பெறவில்லை என்றால் அன்று எதிரியிடம் பணம் இல்லாததால் 09.03.2021அன்று எதிரியே என் வீட்டிற்கு வந்து காசோலையை கொடுத்தார்.

29. The Complainant during his cross examination deposed that the Complainant knows the accused for 5-6 years. The Complainant had lent money to the Accused on 07.02.2021 for 1% monthly interest. Further deposed that the complainant gave money to the Accused without reducing the first interest amount.

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The Complainant had demanded for the money on 06.03.2021, for which the Accused came to the house of the Complainant on 09.03.2021 and paid Rs.2,000/- for the interest and issued Ex.P2 case cheque to the Complainant.

30. Important portion of the cross-examination of the PW2 Ramesh as follows:-

1* எந்த தேதியில் எதிரியை புகார்தாரர் வீட்டில் பார்த்தேன் என்றால் 07.02.2021 அன்று காலை 09.00 மணிக்கு பார்த்தேன். அன்று புகார்தாரரிடம் பெயிண்ட் வாங்குவது சம்பந்தமாக சந்திக்க சென்றேன்.

2* எதிரி புகார்தாரரிடம் எந்த தேதியில் கடன் கேட்டார் என்றால் எனக்கு தெரியாது. நான் சென்றிருந்த சமயம் எதிரி கடன் வாங்கினார். எதிரி ரூ.2,00,000/-கடன் வாங்கினார். எதிரி ரூ.2,00,000/-கடன் வாங்கினார். கடனுறுதிச்சீட்டை என்னை எழுதிக்கொடுக்க சொன்னது யார் என்றால் எதிரி தான் எழுதிக்கொடுக்க சொன்னார். எதிரிக்கு எழுதத் தெரியாது என்பதால் என்னை எழுதச்சொன்னார். புகார்தாரர் கடனுறுதிச்சீட்டை எழுதவில்லையா என்றால் அவரே கடன் கொடுப்பதால் எழுதக்கூடாது என்றும் கடனுறுதிச்சீட்டை என்னை எழுதச்சொன்னார்.

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31. The PW2 in his cross examination deposed that on 07.02.2021 the Accused had borrowed money from the Complainant and the PW2 had filled the promissory note as the Accused dont know the fill it. The DW1 - Accused in his chief examintion had not stated anything about the promissory note.

32. Reliability of witness:-

32.1 It is pertinent to look at the observation of judgment of Hon'ble Supreme Court of India in "**Vadivelu thevar vs State of Madras 1957 AIR 614**" relating to the reliability of the witness, as follows:-

"*Generally speaking, oral testimony in this context may be classified into three categories, namely:*

(1) Wholly reliable.

(2) Wholly unreliable.

(3) Neither wholly reliable nor wholly unreliable.In the first category of proof, the court should have no difficulty in coming to its conclusion either way-it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court, equally has no difficulty in coming to its conclusion. It is in the third category of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial".

32.2 The PW1 – Complainant and PW2 – Ramesh left unrebutted during the cross examination. The deposition of PW1 Complainant was in consonance with the Complaint and corroborates with the same. The deposition of PW2-Ramesh was in consonance with PW1 and corroborates with the same. The PW1 – complainant and PW2 - Ramesh witnesses are satisfied to be wholly reliable.

33. The Accused had not produced any documentary evidence to show that she had borrowed money from Mr.Solaimurugan. No Documentary evidence produced to show that the Ex.P2 case cheqeue was issued to Mr.Solaimurugan. Moreover the Accused – DW1 in his chief examination had not deposed anything about the promissory note.

34. Important portion of the chief examintion of PW3 – Bank Manager as follows:-

1"06.02.2021 அன்று புகார்தாரர் நகைக்கடன் ரூ.2 லட்சம் வாங்கியிருக்கிறார்.

06.02.2021 அன்றே வங்கியிலிருந்து மேற்படி 2 லட்சத்தை புகார்தாரர் எடுத்துள்ளார்.

35. From the deposition of PW3 and Ex.P6 Bank statement it is clear that the Complainant had withdrawn Rs.2,00,000/- from his bank. From Ex.P1 promissory note it is clear that the Accused had borrowed Rs.2,00,000/- from the Complainant

on 07.02.2021. The Complainant withdrew money from his bank and gave it to the Accused person.

36. Moreover, the Accused would have directed for stop payment, requested to return the cheque back through a notice, or would have made a complaint against the party for not returning the cheque, if the Amount for the same was paid to the party as alleged by the Accused. But no such act was done by the Accused. Moreover the Accused had received Ex.P4 Statutory Legal notice and left silent without replying the same. From which it is clear that the Accused has knowledge about the issuance of the case cheque and about the liabilty. The Accused is legally liable for the Ex.P2 case cheque amount of Rs.2,00,000/- during the dishonour of the said cheque.

37. The Complainant was left unrebutted in his Cross Examination. Mere denial of evidence of the Complainant, without providing any evidence nor through any circumstances, will not rebut the initial presumption favoring the Complainant. None of the allegation of the accused was substantiated nor created any circumstance in order to rebut the initial presumption favoring the Complainant. The case cheque amount is legally enforceable debt and the accused is liable to pay the legally enforceable debt to the Complainant.

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38. In the result, the accused is found guilty under section 255 (2) of Criminal Procedure Code,1973. for the offence under section 138 of the Negotiable Instruments Act and the accused is sentenced to undergo one year of simple imprisonment and by considering the interest for the period of trial, financial loss to the Complainant this Court directs the Accused to pay a compensation of Rs.4,00,000/- (Cheque amount is Rs.2,00,000/-) to the complainant under section 357 (3) of Criminal Procedure Code,1973 within one month and in default of payment compensation the accused shall undergo a further period of one month simple imprisonment as default sentence.

Typed, corrected and pronounced by me in the open Court, on the 12th day of August 2026.

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Judicial Magistrate,
Fast Track Court at Magisterial level
Karaikudi.

Complainant side Witness;	
1. PW-1	Venkatesh (Complainant)
2. PW-2	Ramesh
3. PW-3	Siva Ranseetha
Complainant Side Exhibits;	
1. Ex. P-1	The Promissory Note Dated: 07.02.2021
2. Ex. P-2	The Cheque with No.547595 dated 09.03.2021 drawn on Vijaya Bank, Kothamangalam Branch, for Rs.2,00,000/-

3.Ex. P-3	The Cheque Return Memo dated 18.03.2021
4.Ex. P-4	The Legal Notice with postal receipt dated 27.03.2021
5.Ex. P-5	The Acknowledgment Card
6.Ex. P-6	Indian Overseas Bank Account Statement period of 01.02.2021 to 28.02.2022
Defence Side Witnesses;	
1. DW-1	Valli
Defence Side Exhibits ; NIL	
Material Objects Submitted by Prosecution - NIL	
Material Objects submitted on the side of the Defence -NIL	

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Judicial Magistrate,
Fast Track Court at Magisterial level
Karaikudi.

Note:

1.During the period of trial the accused were enlarged on bail.

2.No witnesses were held more than three days without examination.

3. Judgment Date : 12.08.2026