

**III ADDITIONAL DISTRICT & SESSIONS COURT,  
TIRUVALLUR AT POONAMALLEE.**

Present : **Thiru.C.VIJAYAKUMAR, B.A., B.L.,**  
III Additional District & Sessions Judge

**Friday the 10<sup>th</sup> day of April 2026**

**Criminal Appeal No.91/2018**

Name of the Trial Court	:	Judicial Magistrate, Fast Track Court (Magisterial Level No.II), Poonamallee
Trial Court Case Number	:	S.T.C.No.37/2016
Appellant/Accused	:	K. Venkatesan, S/o. Kaliyan, Mazhaympattu Paathai GandhiKuppam, Thiruvennai Nallur & Post, Thirukovilur Taluk, Vilupuram District – 607 203.
Respondent/Complainant	:	M. Sivanesan, S/o.Sigamani, No.17, Puthiya Indira Nagar, Pattabiram, Chennai.
Order of Trial Court	:	Accused was convicted U/s 138 of N.I Act and sentenced to undergo simple imprisonment of 12 months and to pay a compensation of Rs.8,50,000/- within three months, and in default, undergo simple imprisonment for further period of three weeks.
Order of Appellate Court	:	In the result, the Appeal is allowed in terms of Joint Compromise Memo along with the depositions of Appellant and the Respondent. The Judgment and Sentence passed by the Trial Court in STC No.37 of 2016 dated 11.08.2017 is hereby set aside and the Appellant is acquitted from the offence under section 138 NI Act under Section 320(8) Cr.P.C. If any bond is executed that also be canceled.

This Criminal Appeal came up before this Court for final hearing on 12.03.2026 in the presence of M/s. N. Maran learned counsels for appellant/accused, M/s. S. Balamurugan, R. Franklin Perinbanathan, T. Rajan learned counsels for Respondent / complainant and upon hearing the arguments of both sides, on perusal of case records, written arguments stood over for consideration till this day, this court delivered the following:-

### **J U D G M E N T**

The accused in S.T.C.No.37/2016 on the file of Judicial Magistrate, Fast Track Court (Magisterial Level No.II), Poonamallee, has filed this criminal appeal for setting aside the judgment dated 11.08.2017, imposing conviction, sentence and compensation on him.

2) The Complainant submits that the accused has borrowed a sum of Rs. 5,00,000/- (Five Lakhs) for his urgent family expenses and to discharge his other hand loans and agreed to repay the said sum with interest @ 2% on demand by executing a promissory note dated 12-11-2012, in favour of the complainant. The accused neither paid any amount towards Principal nor Interest. In the first week of October 2015 the complainant has demanded for above loan amount with interest from 12-11-2012 (35 months. As such, accused have to pay Rs. 8,50,000/- (Eight Lakhs fifty thousand) (Principal of Rs. 5,00,000/- + interest Rs. 3,50,000/- = Total Rs. 8,50,000). To discharge aforesaid liability accused has issued a cheque

dated 15-10-2015 for Rs. 8,50,000/- (Eight Lakhs fifty thousand) bearing number 066369 drawn on INDIAN BANK, Thiruvennai Nallur Branch, Villupuram – 607 203. The cheque was presented on 29-10-2015 before IDBI BANK, Avadi Branch, Chennai-600 056. The cheque was returned unpaid with an endorsement of FUNDS INSUFFICIENT on 31-10-2015. Complainant intimated to the Accused about the fate of the Cheque and the accused have assured to arrange fund within one week. A legal Notice was issued by complainant on 04-11-2015 within stipulated time. The Legal Notice was acknowledged by Accused on 11-11-2015. There is no reply or repayment. The Accused fails to comply with statutory requirements. The Accused knowing fully well that the funds insufficient on his account deliberately. intentionally willfully issued the cheques and cheated the complainant. Hence, the Complainant lodged a private complaint against the accused under Section 138 of the N.I. Act before the learned Judicial Magistrate, Fastrack Court (Magisterial Level), Poonamallee.

3) After taking cognizance of the case the accused appeared and the copies furnished, substance of accusation read over and explained to him the accused denied the accusation and the case is posted for trial.

4) During trial before the trial court, the Respondent/Complainant was examined as P.W.1 Six documents were marked as Ex.P-1 to P-6. After completion of trial, the accused is found guilty for the offence u/s. 138 of Negotiable Instruments Act.

After that the accused was convicted under Section 255(2) of Cr.P.C. And the accused sentenced to undergo one year simple imprisonment and to pay a sum of Rs.8,50,000/- as compensation within a period of three months, and in default, undergo simple imprisonment for further period of three weeks. under Section 357(3) of Cr.P.C.

4) Aggrieved by the said judgment, the Appellant / Accused preferred this appeal.

5) On 26.02.2026, learned counsel for the Appellant and the Appellant appeared before this Court and filed a memo stated that, the appellant was inclined to negotiate the respondent before the mediation for settlement. Hence, this court referred this case to mediation sub centre, Poonamallee. After that the case was returned along with the petition stated that, this matter has already been settled out of the Court and the appellant seeks that the disposal of this case in accordance with the law.

6) On 12.03.2026 the appellant and the respondent has filed a Joint compromise memo before this court that the matter amicably settled. In support of his claim, the Appellant / Accused was examined as C.W.1, deposed that, he has reached a settlement with the Respondent/Complainant and paid Rs.1,00,000/- to him. He prayed this Court, to release him from this case. Furthermore, he deposed that, he has not deposited any amount before the trial Court. The Respondent / Complainant examined as C.W.2 deposed that, he has reached a settlement with

the Appellant/Accused and received Rs.1,00,000/- from him. Further, deposed that, he has no objection to acquitted the Appellant/Accused from this Case. For the said settlement, both the parties have filed a joint compromise memo before this Court.

7) Now the point for consideration before this court is what order could be passed on the settlement agreement entered between the parties?

8) The Appellant filed this appeal against the conviction order passed by the trial court for the offence under Section 138 Negotiable Instruments Act. Both the parties were appeared before this court and the Respondent / Complainant deposed that, he had received Rs.1,00,000/- (Rupees One Lakh only) from the Appellant / Accused in cash and has no objection to release the Appellant/Accused from this Case. Now the parties come forward with the joint memo, and compound the offence. In the following case the Hon'ble Apex Court observed that,

**K.M.Ibrahim vs. K.P.Mohammed and Ors. (Criminal Appeal No.2281 of 2009 (Arising out of S.L.P. (Crl.) No.9263/09 Crl.M.P.15423/2009) in which the Apex Court in its order dated 02.12.2009 ruled, (at paras 8 and 12), as follows:**

Para 8... The golden thread in all these decisions is that once a person is allowed to compound a case as provided for under Section 147 of the Negotiable Instruments Act, the conviction under Section 138 of the said Act should also be set aside. In the case of Vinay Devanna Nayak (supra), the issue was raised and after taking note of the provisions of Section 320 Cr.P.C.,

this Court held that since the matter had been compromised between the parties and payments had been made in full and final settlement of the dues of the Bank, the appeal deserved to be allowed and the Appellant was entitled to acquittal. Consequently, the order of conviction and sentence recorded by all the courts were set aside and the Appellant was acquitted of the charge levelled against him.

Para 12 ... It is true that the application under Section 147 of the Negotiable Instruments Act was made by the parties after the proceedings had been concluded before the Appellate Forum. However, Section 147 of the aforesaid Act does not bar the parties from compounding an offence under Section 138 even at the appellate stage of the proceedings. Accordingly, we find no reason to reject the application under Section 147 of the aforesaid Act even in a proceeding under Article 136 of the Constitution.

As per the above ratio, during pendency of this appeal, the parties in the present case compounding the offence.

9) In view of the above principle set down by the Hon'ble Supreme Court the Joint compromise memo and the settlement agreement are liable to be entertained. Appellant and Respondent were examined as C.W.1 and C.W.2 and they affirmed the compromise.

10) Hence, in these circumstances, the joint memorandum of compromise and the settlement agreement are recorded, and the appeal is allowed in terms thereof. The Appellant / Accused is ordered to be acquitted from the offence under Section 138 of Negotiable Instruments Act under Section 320(8) Cr.P.C.

**11)** In the result, the Appeal is allowed in terms of Joint Compromise Memo along with the depositions of Appellant and the Respondent. The Judgment and Sentence passed by the Trial Court in STC No.37 of 2016 dated 11.08.2017 is hereby set aside and the Appellant is acquitted from the offence under section 138 NI Act under Section 320(8) Cr.P.C. If any bond is executed that also be cancelled.

Dictated to the Steno-typist, typed by him directly in the computer, and corrected and pronounced by me in the open court on this, the 10<sup>th</sup> day of April 2026.

**III Additional District and Sessions Judge,  
Tiruvallur at Poonamallee.**