

**IN THE COURT OF JUDICIAL MAGISTRATE, FAST TRACK COURT,
(MAGISTERIAL LEVEL)- AMBATTUR, TIRUVALLUR– 53.**

**PRESENT- Tmt.K.MAHASAKTHI,B.B.A.,L.LB(Hons).,
JUDICIAL MAGISTRATE, FAST TRACK COURT, AMBATTUR.**

Dated: 19th June 2026

S.T.C.No.98/2023

CNR.NO.TNTR-3500-0610-2023

**PARTICULARS UNDER RULE 106 OF CRIMINAL RULES OF
PRACTICE, 2019:-**

1.	Serial Number	S.T.C.No.98/2023
2.	Name of Complainant and Offence	Mr.E.Chandran U/s.138 NI Act
3.	Accused Name	Mrs.D.Radhika
4.	Father / Husband Name	-
5.	Occupation	-
6.	Residence	No.74/4A, Gangai Amman koil 2 nd cross street, Kallikuppam, Ambattur,Tiruvallur-600053.
7.	Age	-
8.	Date of Occurence	-
9.	Date of Complaint	06.03.2023
10.	Apprehension	-
11.	Release on bail	-
12.	Date of Commitment	-
13.	Commencement of Trial	12.08.2025
14.	Close of Trial	04.05.2026
15.	Sentence or Order	19.06.2026
16.	Service of copy of judgment or finding on accused	ACQUITTAL
17.	Explanation of delay	No Delay

Mr.E.Chandran

-----Complainant

Vs.

Mrs.D.Radhika

-----Accused

JUDGMENT UNDER SECTION 255 Cr.P.C

A	Serial Number of the Case	STC.No.98/2023
B	Date of Offence	15.02.2023 (Date of expiry of 15 days time after legal notice)
C	Name of the Complainant & Address	Mr.E.Chandran, No.2/254, T.S.P camp road, Veerapuram, Morai, Tiruvallur- 600055.
D	Name of Accused	Mrs.D.Radhika
E	Offence Complained of	Dishonor of Cheque- culpable u/s.138 of the Negotiable Instruments Act.
F	Plea of the Accused and his Examination in Brief	Pleaded not Guilty.
G	Final Order	ACQUITTAL
H	Judgment Reserved on	18.06.2026
I	Judgment Pronounced on	19.06.2026

PART-B – A brief statement of reasons for the decision

This case having been taken on file by this court and coming up for final hearing before me today and in the presence of Mr.G.Kothandan, Advocate for the complainant and the accused being defended by Advocate, Mr.M.Sheik mohammed ali and the case having stood over for consideration till this day and upon the arguments advanced by both side and upon considering the materials on record on merits this court delivered the following

JUDGMENT

1. This Judgment shall decide upon the complaint filed by Mr.E.Chandran (hereinafter referred to as the '**Complainant**') under Section 138, Negotiable Instruments Act, (hereinafter referred to as the '**the NI Act**') against Mrs.D.Radhika (hereinafter referred to as the '**Accused**').

2. The case of the Complainant, in brief, is that the complainant and the accused are family friends, relatives for several years. In December 2021, the accused had approached the complainant to render monetary help of Rs.4,00,000/- in order to conduct accused's brother marriage and promised to return the loan amount within three months. After lapse of time the complainant asked to return the loan amount, the accused requested some time to repay the amount. After repeated demands the accused has paid a sum of Rs.13,000/- and finally the accused had issued a cheque bearing no.613484 dated on 07.12.2022 drawn on State Bank of India, HVF Avadi branch, Chennai for a sum of Rs.3,87,000/- signed by the accused in favor of the complainant (herein after called as '**Cheque in Dispute**') the cheque was presented on 18.01.2023 for collection with his banker Bank of Baroda, Kovilpathagai Branch, Chennai but the cheque was returned for a reason stated as "Exceeds Arrangement" and the same was informed to the complainant by way of return memo dated on 19.01.2023. Then the complainant had sent a legal notice to the accused demanding the repayment of the dishonored cheque amount on 30.01.2023. The said notice was returned as unclaimed on 09.02.2023. Even after the said legal notice the accused had

not repaid the cheque amount and not sent a reply notice. Hence the accused is liable for the offence, so, this present case was filed under sec.138 of N.I.Act.

3. After recording the sworn statement of the complainant and also upon on the perusal of the documents, having found the *prima facie* case against the accused and this court have taken cognizance of the offence and issued summons to the accused. The accused appeared on summons and the copy of the complaint was served on him and on questioning they pleaded not guilty and claimed for trial.

4. The complainant had examined himself as PW1, he has filed his proof affidavit *in lieu* of chief examination and through him documents-Exhibits P-1 to P-8, were marked and his testimony in the chief examination was replica of the complaint. With the above evidence the complainant side evidence was closed. Thereafter, the statement of 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. In the accused side, she herself examined as DW1 and marked Ex.D-1 to D-3, Ex.P-9 then this court had closed the Defense witness and had proceeded the case.

5. 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. This court have 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 honor 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.

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. In the present case, the Complainant has proved the above-mentioned ingredients on the face of it.

7. The 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. 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. 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. 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 as held

Hiten P. Dalal (Vs) Bratindranath Banerjee [(2001) 6 SCC 16]:

“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 favor 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.”

8. In the present case, the Accused has not denied her signature in the cheque in question Ex.P-1 for a sum of Rs.3,87,000/- and had also not denied the receipt of the legal notice sent by the complainant, at the stage of framing of substance of accusation under Sec 251 Cr.P.C. It was also not disputed that the accused had received the legal notice. It has been observed by the Hon’ble Supreme Court in **Rangappa (Vs) Sri Mohan, [AIR 2010 SC 1898]** that, *“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 raise by the Court in favor of the Complainant”*

9. 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 defense 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 defense and it is inconceivable that in some cases the accused may not need to adduce the evidence of his/her own. However, the accused/drawer of a cheque in question neither raises a probable defense 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”.

10. 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”.

11. 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 defense that the court must either believe the defense to exist or consider its existence to be reasonably probable, the standard of reason ability being that of the prudent man. The same was affirmed by the Hon'ble Supreme Court in Krishnananardhan Bhat vs. Dattatraya G. Hegde [2008CrL.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 defense 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 defense 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 defense 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 defense to liability, that the presumption can be stated to have been rebutted.

12. Even without the above said presumptions also, the complainant had examined herself as PW-1 and he had marked the original cheque as Ex.P-1 which was returned for the reasons “Exceeds Arrangement” as claimed in the complaint. And the said fact was established by marking the return memo Ex.P3. Thus, the complainant had established the fact as stated in this complainant that the cheques in Ex.P-1 were returned for the reason of “Exceeds Arrangement”. Moreover, the complainant also marked the copy of the legal notice sent by him as Ex.P-4 & P-5 and its legal notice was returned its postal returned as unclaimed by the accused as Ex.P-6 & P-7. The accused aadhar card copy was marked as Ex.P-8. Hence, the receipt of the legal notice sent to the accused is established. 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 defense”.

13. Keeping the above principle of law in mind, now this court must consider the defense taken by the accused. It is seen from the cross examination of PW1 the accused has raised questioned on the source of income of the complainant. The PW1 has deposed that the source is arranged from his own saving out of his construction work. The accused is relative to the complainant, on such trust the accused had lent loan amount of Rs.4,00,000/- to her without getting any security documents. The case of the complainant was that the accused has requested loan amount of Rs.4,00,000/- to meet her brother marriage to be held in the year of 2023. To contradict the period of borrowing of loan by the accused, she has marked the Ex.D-1 her brother marriage invitation dated on 20.08.2021. This proves that the accused brother marriage had took place on 20.08.2021 itself. In such case, the evidence of PW1 has become inconceivable that he had went to attend the accused brother's marriage on 2023 at Thiruverkadu mandapam. Further the PW1 has deposed in cross examination on 07.12.2022, the accused had personally met the complainant and issued this case cheque Ex.P-1 for the discharge of her liability, to contradict his evidence the accused had marked Ex.D-2 Medical certificate issued by the Dr.P.R.Dhanasekaran civil surgeon, Sr. Asst. Professor of Ordnance Factory Hospital HVF Avadi. In that report

it was certified as the accused under treatment for Osteo Arthritis Pain & Swelling in both legs for the period from 01.09.2022 to 31.01.2023. Here the oral evidence of PW1 at the part of date of issuance of this case cheque was disproved by the accused through Ex.D-2. The PW1 has marked the whatsapp chat copy by DW1, in that document the photocopy of the cheque was vague and not visible to the point of details in that cheque. It cannot be considered as valid documentary evidence when it seems vague. It was admitted fact that the accused and her sister in-law was having civil dispute and the accused is the close relative of accused's sister in-law. The accused has taken defense that her husband has borrowed loan from his sister and issued the accused cheque as security towards the loan amount. The Ex.D-3 death certificate of accused dated on 24.10.2022, after the demise of her husband, her sister in-law has misused the security cheque through the help of the PW1 and filed this false case against the accused. The complainant has not established in his evidence the mode and the date of lending loan amount of Rs.4,00,000/- to the accused. Even from his evidence it was proved that the accused has not issued the cheque to the complainant on 07.12.2022. The burden has been shifted to the complainant to disprove the defense with documentary evidence. The evidence of the PW1 is contradiction with the complaint. The Ex.P-1 cheque was dated on 27.12.2022 but in the complaint and in the proof affidavit of PW1 it was as stated as on 07.12.2022. It was apparent from the Ex.P-1 that there was over write in the date of the cheque. The exact date on when the hand loan was taken place between the complainant and the accused is not established in his evidence, even it is inconceivable that the PW1 had

given loan to the accused without obtaining any security document for the same. The PW1 was working as contractor in building site, in such it was inconceivable that he has not maintained any record of books for the loan transactions.

14. It is necessary to cite the **Hon'ble Madras High Court Judgement in CrI.A.No.520 of 2007 dated 25.04.2018 B.Balakmoji Vs. J.Sathianarayanan**, observed as

“14. If really any loan is availed by the respondent, it is the duty of the appellant to show that on what manner and in which date, the said loan was availed by the respondent. Even assuming that the said due was made during the time of business transaction, it is the duty of the appellant to show the Accounts Books with regard to the said transaction. But, in this case, the appellant has not produced any document to show that the respondent has to pay Rs.11 lakhs to the appellant.

15. In such circumstances, the trial Court has correctly analyzed the entire facts and come to the conclusion that the alleged cheque was not issued for discharging the legally enforceable debt”. The above cited case is relevant to the present case, when the complainant had failed to establish the liability of the accused with material factors.

15. The Hon'ble Supreme Court in the case of Appeal(crl.) 1433-1434 of 2007 John K John Vs. Tom Varghese & Anr, dated on 12.10.2007 observed as follows:

"The High Court was entitled to take notice of the conduct of the parties. It has been found by the High Court as of fact that the complainant did not approach the court with clean hands. His conduct was not that of a prudent man. Why no instrument was executed although huge sum of money was allegedly paid to a respondent was a relevant question which could be posed in the matter. It was open to the High Court to draw it's own conclusion therein. Not only no document had been executed, even no interest has been charged". The above ratio is squarely applicable to the facts of the present case.

16. Therefore, the Ex.P-1 cheque in dispute was executed by the accused for legally enforceable debt is doubtful. Also, it is doubtful from the evidence of the PW1 that the accused had borrowed loan for a sum of Rs.4,00,000/- from the complainant. No prudent man will lend such a huge amount without any security deposit or documents. The date of issuance of cheque and the date of lending loan amount of Rs.4,00,000/- was not established by the PW1 in his evidence. The PW1 has deposed in his evidence that the accused has given the case cheque in person on 07.12.2022 but contradictory to his statement the medical certificate (Ex.D-2) of the accused proved that the accused was affected by Osteo Arthritis pain, swelling in both the leg and bed ridden for the period of 01.09.2022 to 31.01.2023. Therefore, the documentary evidence has raised scepticism in the credibility of the evidence of PW1. This court is of the considered opinion that the said defense of the accused is not mere a possible explanation alone and the cross of the PW-1 by itself and the

admissions given by the PW-1 by itself in the minds of the court had raised a serious doubt as to the version of the case as pleaded by the complainant.

17. It is observed by three Judges larger bench of our Supreme Court in **Rangappas case** in 2010 (3) MLJ that [Section 139](#) N.I.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 under [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. While dealing with the nature and standard of proof to be adduced by way of rebuttal evidence the Supreme Court observes "in such a scenario, the test of proportionality should guide the construction and interpretation of reverse onus clause and the accused cannot be expected to discharge an unduly high standard of proof. 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 the settled legal 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' and therefore if the accused is able to raise a probable defence which create doubts about the existence of a legally

enforceable debt or liability, the prosecution can fail. This court is of the considered opinion that the above dictum squarely applicable to the facts of the case.

18. Thus, this court is of the considered opinion that the arguments advanced by the accused is acceptable and the arguments of the complainant does not fit as per the evidence on record as discussed in the earlier paras. And the failure on the part of the complainant to give possible explanation for all the material discrepancies found in the evidence and the non-examination of the material witness would only compel this court to hold that the prosecution fails to prove the case as pleaded in the complaint. As such the mere failure of the accused to enter the witness box will no way affect the merit of the defense raised on the side of the accused.

19. When this court in the preceding paras had found out the inherent weakness in the case of the complainant and which goes to the root of the case, this court is of the considered opinion that the accused is able to raise a probable defense and had created a serious doubts with regard to the very maintainability of the case by the complaint and that the cheque in dispute Ex.P1 was not supported by any legally enforceable debt and she had successfully rebutted the presumption under section.139 of the Negotiable Instruments Act and the burden shifts back to the complainant, which the complainant failed to discharge. **Hence, the accused in this case namely D.Radhika acquitted of the offence under Sec.138 of the Negotiable Instruments Act, 1881 under Sec.255(1) Cr.P.C.**

Typed directly by me in my laptop, corrected and pronounced by me in the open court this the 19th day of June 2026.

Annexure**Complainant side witness**

Pw-1- Mr. E.Chandran

Complainant side Documents

Exhibits
Ex.P-1- Original cheque
Ex.P-2- Bank deposit challan
Ex.P-3- Return Memo
Ex.P-4- Legal Notice
Ex.P-5- Legal Notice
Ex.P-6- Return Legal Notice
Ex.P-7- Return Legal Notice
Ex.P-8- Aadhar card of the complainant
Ex.P-9- 27.12.2022 dated Whatsapp chat (Marked by Dw1)
Ex.P-10- whatsapp chat (Marked by Dw1)
Ex.P-11- Photo of the Accused's house (Marked by Dw1)

Accused Side Witness & Document: NIL

Exhibits
Ex.D-1- Marriage Invitation
Ex.D-2- Medical certificate
Ex.D-3- Accused's Husband death certificate

Note:

1. The result of the case was informed to the complainant.