

In the Court of the Judicial Magistrate I, Tirupathur

Present: Tr. K.S. Dinesh, B.A., B.L., (Hons.)

Judicial Magistrate I, Tirupathur

Friday the 10th day of April 2026

S.T.C. No.1935/2024

{ CNR No.TNTU02-014122-2024 }

M.S.Nedumaran (56), S/o. Subramani,

No.38/117, Periyavar Shanmuganar Street,

Tirupathur Taluk & District.

... Complainant

//Vs//

Saleem (50), S/o.Mohadheen

No.5, Aari Street,

Tirupathur Taluk & District.

...Accused

This case taken on file on 16.12.2024 as STC. No. 1935/2024. This case came up before me for the final hearing on 10.04.2026 in the presence of Tr.N.Nareshbabu, Counsel for the complainant and Tr.D.Krishnan, Counsel for the accused and on hearing the arguments advanced by either side counsels and on perusal of entire evidence and the documents relied by either side and on available material case records and having stood over for consideration till this day, this court delivered the following.

JUDGMENT

1) The Complaint has been filed by the Complainant against the Accused under section 138, 142 of the Negotiable Instruments Act (Hereinafter referred as “NI Act”)

2) The contents of the Complaint in brief is as follows:-

The accused approached the complainant at his house on 16.08.2024 and sought a loan of Rs.8,00,000/- for his business expansion and urgent needs and received the said amount in cash from the complainant and gave a post-dated Karur Vysya Bank, Tirupathur branch cheque bearing number 000237 dated 15.10.2024 for Rs.8,00,000/- to the Complainant on 16.08.2024 itself. Hence on 16.10.2024 the Complainant deposited the cheque in his bank account maintained in Indian Overseas Bank, Tirupathur branch for collection. However the same was returned on 17.10.2024 as “Refer to Drawer”. Thereafter the complainant provided 15 days time to the accused and issued a legal notice dated 19.10.2024 to the accused through his counsel to his address. The same was received by the accused. However the accused did not send any reply notices for the same and did not return the money. Hence thereafter the complainant preferred the present complaint against the accused on 13.11.2024 under sections 138 and 142 of Negotiable Instruments Act.

3) On receipt of the complaint, sworn statement of the complainant was taken and cognizance was taken and process was issued against the accused along with copy of the complaint under section 204(3) Crpc. On appearance, the accused appeared and

was questioned about the substance of accusation made in the complaint. The accused pleaded not guilty and claimed to be put on trial.

4) The Complainant examined himself as PW-1 and Exb.P-1 to Exb.P-4 were marked. The case of the complainant as could be seen from the evidence of the prosecution side is as follows:-

PW-1:- The accused approached the PW1 at his house on 16.08.2024 and sought for Rs.8,00,000/- for his business and urgent needs and received the said amount in cash from the PW1 and gave a post-dated Karur Vysya Bank, Tirupathur branch cheque bearing number 0002373 dated 15.10.2024 for Rs.8,00,000/- to the PW1 on 16.08.2024 itself. Hence on 16.10.2024 the PW1 deposited the cheque in his bank account maintained in Indian Overseas Bank, Tirupathur branch for collection. However the same was returned on 17.10.2024 as “Refer to Drawer”. Thereafter the PW1 provided 15 days time to the accused and issued a legal notice dated 19.10.2024 to the accused through his counsel to his address. The same were received by the accused. However the accused did not send any reply notices for the same. Hence thereafter the PW1 preferred the present complaint against the accused on 13.11.2024 under sections 138 and 142 of Negotiable Instruments Act.

5) After closing of the evidence on the side of the complainant, the incriminating portion of the complainant side evidence were put forth to the accused under section

313(1)(b) Crpc and the same were denied by the accused as false and further stated that he has evidence to lead on the side of the defence.

6) On the side of the Defense, the Accused was examined as DW-1 and Ex.D-3, Ex.D-4 were marked. One Tr.John Basha, S/o. Abdul Malik was examined as DW-2. No documents were marked.

DW-1 :- DW- 1 is the accused in the present case. He deposed that he knows the complainant since 2011 when they were serving as Tirupathur Councillors at that time. Complainant was running a footwear shop and the accused was running a hardware, plywood and glass shop. Furthermore the accused was also engaged in plywood retail business at that time and hence the complainant and the accused joined together and was engaged in plywood whole-sale business and they used to bring load from Kerala using the GST of the accused. The complainant used to go to Kerala in order to bring load and hence for the business needs, the accused used to given signed, unfilled cheques. The complainant used to maintain the profit/loss of the business. The complainant had the business accounts and did not provide any such details to him. There was loss during the covid-19 lockdown and hence we stopped the said business. Since we both were engaged in business, I informed the complainant that it is only right that we both take the losses in the business. However the complainant did not heed to it and wanted the accused to give money. Hence the accused sent some money through G-pay to the complainant. Then suddenly the

complainant threatened him and suddenly he received intimation from bank that his cheque has been returned. He did not receive any money from the complainant and he did not give the cheque towards the same. The Documents Exb.D-3, D-4 marked through him.

DW-2 :- DW-2 deposed that he knows both the complainant and the accused and that he was having a wood depot next to the hardware shop of the accused. The complainant used to come to the shop of the accused regularly and hence he knows the complainant as well. The complainant and the accused were together engaged in plywood business and they used to get load from Kerala regularly and sometimes even DW-2 was asked by both complainant and the accused to help them to load and unload. If complainant is taking the load, he used to maintain the accounts and if the accused is taking the load, the accused used to maintain the accounts. The same happened 5 years ago and thereafter the complainant stopped coming to the shop and DW-2 does not know what is the problem between the two of them. When the complainant goes to Kerala, the accused used to give him cash and cheques.

7) Point for Determination:-

"Whether the Complainant has proved the guilt of the accused beyond all reasonable doubt or not?"

Discussions:-

8) After hearing rival arguments on both sides and on perusal of the record, it comes to know that the Complainant and Accused are known to each other since they are friends. Furthermore the accused did not deny the issuance of cheque or the signature contained in the said cheque. Further there is no dispute that the cheque in question was returned unpaid for the reason "Refer to Drawer". The Defense side has also not disputed the existence of legally enforceable debt.

9) The present cheque has been issued on 16.08.2024 and the same was presented for collection before the Complainant's banker Indian Overseas Bank, Tirupattur branch which was returned as "Refer to Drawer" on 17.10.2024. Legal notice was issued on 19.10.2024 which was received by the accused on 22.10.2024 and the present complaint has been filed on 13.11.2024. Thus the complaint has been preferred within the time limit prescribed by the statute.

10) The Hon'ble Supreme Court of India in Rangappa Vs. Sri Mohan reported in 2010 (3) CRIMES 40 (SC), held as follows:-

“ When the signature is admitted by the accused, then the presumption can be drawn in favour of the complainant including the legally enforceable debt and such presumption will be rebuttable in nature”.

11) In the present case also, the accused has not disputed the signature contained in the cheque in their cross-examination. Even in the cross-examination the Defense side has not taken any defense regarding the signature found in the Exb.P-1 cheque. Thus the Defense side having failed to dispute the signature found in the Exb.P-1 cheque either through reply notice or through evidences or through cross-examination of PW-1. Furthermore the accused who was examined as DW-1 has also admitted that the signature found in Exb.P-1 cheque is his signature. Thus the accused having admitted the signature contained in the cheque in question, this court inclines to draw the initial statutory presumption in favour of the complainant. When the initial presumption is available in favour of the complainant, the duty is cast upon the accused to rebut the presumption available in favour of the complainant.

12) In order to rebut the presumption available in favour of the complainant, the Defense side has come forward with the following defenses in the cross-examination and the Defense side evidences:-

1. The complainant and the accused were together engaged in whole-sale reaper business and the business was run using the GST of the accused and hence the accused used to give signed blank cheques to the complainant when he goes to take load from Kerala and since there is loss in the business, he utilised such cheques and filed the present case.

2. Only signed blank cheques were issued by the accused to the complainant for business purposes which was filled by the Complainant.

13) **Defense No.1:- The complainant and the accused were together engaged in whole-sale reaper business and the business was run using the GST of the accused and hence the accused used to give signed blank cheques to the complainant when he goes to take load from Kerala and since there is loss in the business, he utilised such cheques and filed the present case.**

It is the case of the accused that the accused and the complainant jointly were engaged in whole-sale plywood business and the GST of the accused was used for the said purpose and the complainant used to go to Kerala in order to purchase products and for that purpose, in the course of business, the accused used to sign and give blank cheques and one such cheque has been used by the complainant to file the present complaint. The same has been denied by the accused. Since specific defense taken by the accused that the complainant and the accused were jointly engaged in business, the burden of proving the same is on the accused. In order to prove the case of the accused, the accused himself was examined as DW-1 and owner of the nearby shop was examined as DW-2 and Exb.D-1 to D-4 were marked through him. Exb.D-2 to Exb.D-4 are the alleged statement of accounts given by the complainant to the accused. However the said document has been denied by the complainant. It is pertinent to note that the same does not contain the signature of the complainant and they are merely hand-written notes of the expenses made and the loads taken.

However the defense side has not produced any documents to show that the accused and the complainant were jointly engaged in business. It is the case of the defense side that the GST number of the accused was used for the said business. However no documents pertaining to the said GST number was produced before this court and no documents showing the alleged transactions with the supplier from Kerala using the said GST number has also been produced. Without production of the said documents, Exb.D-2 to Exb.D-4 documents alone cannot be relied. It is the case of the defense side that the accused was engaged in plywood business. However no documents have been produced to substantiate the same. Furthermore the defense side has produced Exb.D-1 which is the screenshot print-outs of the money sent by the accused to the Complainant through his G-pay on various occasions from 07.04.2023 to 14.11.2024. It is the case of the accused that there was loss in the said business and the complainant demanded that the accused should pay the said losses to the complainant and hence the said money was sent to the complainant. It is pertinent to note that the defense side has not produced any reliable documents to show the existence of any such business jointly run by the accused and the complainant. Hence without proving the same, the Exb.D-4 which is alleged to be the payments towards the losses cannot be taken into consideration. The defense side has further examined one DW-2 who is the neighbouring shop owner. As per the cross-examination of DW-2, he is a close relative of the accused as well. DW-2 has deposed that the accused and the complainant were jointly running a plywood business and the complainant used to come to the shop and both the accused and the complainant have asked DW-2 to load

the products sometimes. However it is pertinent to note that the accused has not produced any documents to show the existence of any business jointly run by the complainant and the accused. Hence without any such documentary evidences, the oral evidences of DW-1 and DW-2 alone cannot be taken into consideration regarding the alleged existene of a business jointly run by the accused and the complainant.

14. Furthermore as per the evidence of DW-1, all the transactions and profit/loss regarding the joint business was maintained by the complainant. However DW-2 who was examined on the side of the Defense has stated that the complainant used to maintain the accounts for the products taken by him and the accused used to maintain the accounts for the products utilized by him. Hence the evidences of two defense side witnesses are contradicting each other with regard to maintenance of accounts by the complainant. Furthermore it is pertinent to note that, it is the case of the defense side that the GST number of the accused was used for the said joint business. Hence naturally for the purposes of filing the compliance of the transactions, the same would be taken by the accused. Hence the defense side has failed to prove the case of the defense side that the complainant and the accused jointly ran a business and signed blank cheques were issued in pursuance of the said business.

15) **Defense No.3 :- Only signed blank cheques were issued by the accused to the complainant which was filled by the Complainant.**

It is the case of the Complainant that only blank cheques were issued by the accused to the complainant and the same were filled by the Complainant. The Hon'ble Supreme Court and Hon'ble High Court in a plethora of Judgments has categorically held that details in the cheque can be filled if there is a legally enforceable debt. **The Hon'ble Supreme Court in Bir Singh Vs. Mukesh Kumar reported in 2019 INSC 149 held as follows:-**

“ 40. Even a blank cheque leaf, voluntarily signed and handed over by the accused, which is towards some payment, would attract presumption under section 139 of the Negotiable Instruments Act, in the absence of any cogent evidence to show that the cheque was not issued in discharge of a debt....

42. The subsequent filling in of an unfilled signed cheque is not an alteration”

Thus the said Judgment of the Hon'ble Supreme court will be squarely applicable to the present case. Hence the subsequent filling of an unfilled signed would not amount to alteration and hence would attract the presumption under section 139 of the Negotiable Instrument Act. Hence the Defense side has failed to prove the second defense as well.

16) The Hon'ble Supreme Court of India in Rajesh Jain Vs. Ajay Singh reported in 2023 INSC 888 has held as follows:-

“ 38. As soon as the complainant discharges the burden to prove that the instrument, say a cheque, was issued by the accused for discharge of debt, the presumptive device under Section 139 of the Act helps shifting the burden on the accused. The effect of the presumption, in that sense, is to transfer the evidential burden on the accused of proving that the cheque was not received by the Bank towards the discharge of any liability. Until this evidential burden is discharged by the accused, the presumed fact will have to be taken to be true, without expecting the complainant to do anything further.”

17) Thus the Defense side has failed to establish any defenses to rebut the presumption regarding the existence of the legally enforceable debt between the accused and the Complainant. Furthermore the Defense side has not produced any oral or documentary evidences to substantiate the same. Thus the Defense side has failed to establish any defenses to rebut the initial presumption raised in favour of the Complainant.

18) In the present case, the initial presumption raised in favour of the complainant has not been strongly rebutted by the accused. Furthermore the accused did not produce any relevant documentary or oral evidences to ascertain the rebuttal of the accused.

19) In view of the reasoning stated supra, this court comes to the conclusion that unless and until the contrary is proved, the presumption shall be made of consideration, as to date, as to time of acceptance, as to time of transfer, as to order of endorsement, as to stamps and that holder is a holder in due course and such presumption is available to the complainant under sections 138 and 142 of the NI Act. Though the accused had taken the defence by principle of preponderance of probabilities, the presumption in favour of the complainant was not successfully rebutted by the accused. Merely putting suggestion, bare denial and explanation by the accused without adducing any proper evidence towards the same is not plausible. In the light of above reasoning, this Court comes to the conclusion that the complainant proved the guilt of accused beyond all reasonable doubt. The accused is evading the repayment for about 2 years. Hence, this court is inclined to impose 1.25 times the cheque amount Rs.8,00,000/-, (i.e.,) $\text{Rs.8,00,000/-} \times 1.25 = \text{Rs.10,00,000/-}$ (RUPEES TEN LAKHS ONLY), as compensation.

20) In the result, the Accused is found guilty of offence under section 138 and 142 of the Negotiable Instruments Act and the Accused is Convicted as per section 255(2) of Cr.PC. and sentenced to undergo simple imprisonment for the period of SIX MONTHS and accused shall pay the compensation of Rs.10,00,000/- (RUPEES TEN LAKHS ONLY), as per S.357 (3) of Cr.P.C., payable to the complainant within 2 months from the date of this Judgment, failing which the accused shall undergo default sentence of 2 months imprisonment. No fine is imposed.

Dictated to the Steno-typist, transcribed and typed by her on computer, corrected and pronounced by me in open court on 10th day of April 2026.

**Judicial Magistrate No.I,
Tirupathur.**

Appendix

Complainant side Witnesses:-

- 1) P.W-1 : Tr. Nedumaran

Complainant side Exhibits:-

- 1) Ex.P-1 : 15.10.2024 dated Original Cheque bearing No.000237 for Rs.8,00,000/-drawn on Karur Vysya Bank, Tirupathur Branch - original
- 2) Ex.P-2 : 17.10.2024 dated Return memo - Original
- 3) Ex.P-3 : 19.10.2024 office copy of the Legal notice.
- 4) Ex.P-4 : 22.10.2024 Received Acknowledgment card of the accused

Accused side Witnesses :-

- 1) D.W-1 : Tr. Saleem
- 2) D.W-2 : Tr. John Basha

Accused side Exhibits:-

- 1) Ex.D-1 : UPI Payments screenshots
- 2) Ex.D-2 : Cash Note slips
- 3) Ex.D-3 : Plywood Supply details written note
- 4) Ex.D-4 : Written note of expenses

Note:-

- 1) No witness was detained for more than three days without examination
- 2) The case result communicated to parties.

**Judicial Magistrate No.I,
Tirupathur.**