

In the Court of the Judicial Magistrate I, Tirupattur

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

Judicial Magistrate No. I, Tirupattur

Tuesday the 10th day of March 2026

S.T.C. No. 2185/2023

{ CNR No.TNTU02-019377-2023 }

Thiru. Jaisankar S/o. Boopathi,
No.3/412, Madapalli Village,
Madavalam Post,
Tirupathur Taluk and District.

.... Complainant

//Vs//

Thiru. Bakthavachalam S/o.Rangan,
No.3/474, Madapalli Village,
Madavalam Post,
Tirupathur Taluk and District.

...Accused

This case taken on file on 27.12.2023 as STC. No. 2185/2023. This case came up before me for the final hearing on 10.03.2026 in the presence of Tr.S.Sivakumar 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

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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 complainant and the accused are friends. The accused approached the complainant in the month of April 2023 and availed hand loan of Rs.2,50,000/- for his children education, to settled his debts and agreed to repay the said amount of Rs.2,50,000/- within a span of six months. The accused has not repaid any amount. After the said six months also the accused failed to repay the amount of Rs.2,50,000/- and after several demands made by the Complainant, the accused issued his State Bank of India, Tirupathur Branch, Cheque No.177244 dated 01.11.2023 for Rs.2,50,000/- to the complainant and the accused has promised that the cheque would be honoured if presented without fail. The complainant has presented the said cheques bearing No. 177244 for collection on 01.11.2023 in his account in Ujjivan Small Finance Bank, Tirupathur branch. The same has been processed by the bank and returned the said cheque stating “EXCEEDS ARRANGEMENT” with return

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memo dated 04.11.2023. The Accused has issued the present cheque knowing very well that the same will be returned with an intention to cheat the complainant. The complainant issued a legal notice on 11.11.2023 to the accused demanding repayment of the money due as well as intimating, the complainant would initiate criminal action u/s 138 & 142 of the Negotiable Instrument Act. The accused has received the said notice on 25.11.2023. Even after the notice also, the accused has failed to repay the amount and has issued a reply notice stating false allegations. Hence the complaint has been filed.

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-5 were marked. The case of the complainant as could be seen from the evidence of the prosecution side is as follows:-

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PW1:- PW1 and the accused are friends. The accused approached PW1 in the month of April 2023 and availed a hand loan of Rs.2,50,000/- for his children education and to settle his debts and agreed to repay the said amount of Rs.2,50,000/- within a span of six months. The accused has not repaid any amount. After the said six months also the accused failed to repay the amount of Rs.2,50,000/- and after several demands made by the PW1, the accused issued his State Bank of India, Tirupathur Branch, Cheque No.177244 dated 01.11.2023 for Rs.2,50,000/- to PW1 and the accused has promised that the cheque would be honoured if presented without fail. PW1 has presented the said cheque bearing No. 177244 for collection on 01.11.2023 with his account maintained in Ujjivan Small Finance Bank, Tirupathur branch. The same has been processed by the bank and returned the said cheque stating **“EXCEEDS ARRANGEMENT”** with return memo dated 04.11.2023. The Accused has issued the present cheque knowing very well that the same will be returned with an intention to cheat the PW1. PW1 issued a legal notice on 11.11.2023 to the accused through his counsel demanding repayment of the money due as well as intimating that PW1 would initiate criminal action u/s 138 & 142 of the Negotiable Instrument Act if the amount is not repaid. The accused has received the said notice on 25.11.2023. Even after the notice also, the accused has failed to repay the amount and has false replied for the same. Hence the complaint has been filed.

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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) No witnesses were examined on the part of the Defense side and no documents were marked.

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 is the case of the Complainant that himself and Accused are known to each other. Though the same has been disputed by the accused in the reply notice, the same has been admitted by the accused in the cross-examination of PW-1. Furthermore the accused has not denied the signature in the cheque at the time of cross-examination. Since the Defense side has not denied the signature found in the Exb.P-1 cheque to be the signature of the accused, the complainant can draw the initial presumption in favour of the complainant that the same was issued for a legally enforceable debt.

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9) 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”.

Since as per the discussions supra, it has been ascertained that the signature found in the cheque belongs to the Accused, therefore this court is inclined 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.

10) In order to rebut the presumption available in favour of the complainant, the accused has raised the following defenses at the time of cross-examination

1. The cheque was only given to one Sakthi as security for the loan obtained from him which was already repaid. The complainant obtained the cheque from Sakthi and has filed the present case and the cheque was not issued by the accused to the complainant. No legally enforceable debt is pending between the complainant and the accused.

2. The entire loan amount has been repaid and there is no loan amount outstanding payable by the accused to the complainant and there is no legally enforceable debt.

11) **First Defense:- The cheque was only given to one Sakthi as security for the loan obtained from him which was already repaid. The complainant obtained the cheque from Sakthi and has filed the present case and the cheque was not issued by the accused to the complainant. No legally enforceable debt is pending between the complainant and the accused.**

Specific defense taken by the Defense side that the accused obtained loan from one Sakthi and had signed and issued two cheques as collateral for the said loan and has repaid the entire amount and the said cheque was given by Sakthi to the Complainant who has filed the present case. Since as per the discussions supra, presumption regarding legally enforceable debt has already been drawn in favour of the complainant, the burden of proof is upon the accused to show that the cheque was issued to only Sakthi and not the complainant. The defense side has not produced any oral or documentary evidences to show there was any transactions between the said Complainant and Sakthi. Furthermore the defense side has not produced any documents to show that the present cheque was indeed given as security to Mr.Sakthi for the loan availed from him. Though it is the case of the accused that he has repaid

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the entire loan availed from Mr.Sakthi, no documents have been produced by the defense side to show any such transactions between him and the said Mr.sakthi. It is pertinent to note that though in the Exb.P-5 reply notice the defense side has spoken about the said Mr.Sakthi, in the cross-examination of PW-1, there is no mention of the said Mr.Sakthi. Thus the defense side has failed to prove through sufficient oral and documentary evidences that the cheque was only given to one Mr.Sakthi as collateral for the loan availed from him and the cheque was obtained by the complainant from the said Mr.Sakthi.

12) Second Defense:- The entire loan amount has been repaid and there is no loan amount outstanding payable by the accused to the complainant.

Specific defense taken by the accused that there is no legally enforceable debt and the loan has been repaid by the accused to the complainant. As per the discussions supra, initial presumption regarding the existence of a legally enforceable debt has been drawn in favour of the complainant. Hence the same being rebutted by the Accused during the cross-examination, the burden of proof is upon the Accused to disprove the same. Though the defense side has stated that the entire loan amount has been repaid by the accused to the complainant, the defense side has not produced any oral or documentary evidences to substantiate the same. Furthermore the Defense side has not produced any documentary evidences to show that there was indeed any transactions between the complainant and the accused. Furthermore the specific

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defense being taken by the accused regarding repayment of the entire loan and non-existence of legally enforceable debt, the burden of proof is upon the defense side to prove the same. However the defense side has not produced any oral or documentary evidences to substantiate the same. Hence the defense side has failed to prove that the defense side has repaid the entire loan and the non-existence of legally enforceable debt.

13) 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.”

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14) Thus the above said judgement of the Hon'ble Supreme court will be squarely applicable to the present case. The defense side has merely denied the case. However the Defense side has not produced any oral or documentary evidences to rebut the presumption available in favour of the complainant. Thus the Defense side has failed to establish any defenses to rebut the presumption regarding the existence of the legally enforceably debt between the accused and the Complainant. Furthermore the Defense side has not produced any oral or documentary evidences to substantiate the defenses raised by them. Thus the Defense side has failed to establish any defenses to rebut the initial presumption raised in favour of the Complainant.

15) In view of the above and 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

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complainant proved the guilt of accused beyond all reasonable doubt. The accused is evading the repayment for about 3 years. Hence, this court is inclined to impose 1.5 times the cheque amount of **Rs.2,50,000/- (i.e.,) Rs.2,50,000/- X 1.5 = Rs.3,75,000/- (RUPEES THREE LAKHS SEVENTY FIVE THOUSAND ONLY)**, as compensation.

16) 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.3,75,000/- (RUPEES THREE LAKHS SEVENTY FIVE THOUSAND 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 Typist, transcribed and typed by her on computer, corrected and pronounced by me in open court on 10th day of March 2026.

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Appendix

Complainant side Witnesses:-

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

Complainant side Exhibits:-

- 1) Ex.P-1 : 01.11.2023 dated Original Cheque bearing No.177244 for Rs.2,50,000/- State Bank, Tirupathur Branch - original
- 2) Ex.P-2 : 04.11.2023 dated Return memo
- 3) Ex.P-3 : 11.11.2023 office copy of the Legal notice
- 4) Ex.P-4 : Postal receipt
- 5) Ex.P-5 : Reply notice

Accused side Witnesses :- -NIL-

Accused side Exhibits:- -NIL-

Note:-

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

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