

TNVR020007002026

Judgement Reserved on : 10.07.2026

Judgement Pronounced on : 31.07.2026



**IN THE COURT OF THE JUDICIAL MAGISTRATE,  
FAST TRACK COURT, SRIVILLIPUTTUR.**

**Present: Thiru. R. Sundara Kamesh Marthandan, M.L.,  
Judicial Magistrate, Fast Track Court, Srivilliputtur.**

Friday, on the 31<sup>st</sup> day of July 2026

**S.T.C. No. 319 of 2026**

R. Chandrasekar

...Complainant

-vs-

Abdul Rahim Sheik Dawood

... Accused

|                            |                         |                                                                                   |
|----------------------------|-------------------------|-----------------------------------------------------------------------------------|
| 1.                         | S.T.C.No. 319 of 2026   |                                                                                   |
| 2.                         | Offence                 | Under Section 138 of Negotiable Instrument Act                                    |
| Description of the Accused |                         |                                                                                   |
| 3.                         | Name                    | Abdul Rahim Sheik Dawood                                                          |
| 4.                         | Accused's Father's name | Sheik Dawood                                                                      |
| 5.                         | Occupation              | Business                                                                          |
| 6.                         | Address                 | D.No.18/2B/2E, Ashok Nagar 1 <sup>st</sup> Main Road,<br>Srivilliputtur - 626125. |
| 7.                         | Age                     | Not Mentioned                                                                     |
| Date of                    |                         |                                                                                   |
| 8.                         | Occurrence              | 21.01.2026                                                                        |
| 9.                         | Complaint               | 16.02.2026                                                                        |
| 10.                        | Apprehension            | Nil                                                                               |

|     |                                                                                                                                                                                                                                    |                        |            |       |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------------|-------|
| 11. | Released on Bail                                                                                                                                                                                                                   | Not Applicable         |            |       |
| 12. | Commitment                                                                                                                                                                                                                         | Not Applicable         |            |       |
| 13. | Commencement of Trial                                                                                                                                                                                                              | 02.03.2026             |            |       |
| 14. | Closure of Trial                                                                                                                                                                                                                   | 19.06.2026             |            |       |
| 15. | Sentence or Order                                                                                                                                                                                                                  | Conviction             |            |       |
| 16. | Service of Copy of Judgement or Finding on Accused                                                                                                                                                                                 | Yes                    |            |       |
| 17. | Period of Remand of the Accused                                                                                                                                                                                                    | Nil                    |            |       |
| 18. | Date of Filing of the Final Report/ Complaint                                                                                                                                                                                      | 16.02.2026 (Complaint) |            |       |
| 19. | Date of Questioning under Sections 240, 246 & 251 Cr.P.C.                                                                                                                                                                          | 15.04.2026             |            |       |
| 20. | Miscellaneous Petitions and their Results                                                                                                                                                                                          | Nil                    |            |       |
| 21. | Date of Examination in Chief and Cross:                                                                                                                                                                                            | P.W's                  | Chief      | Cross |
|     |                                                                                                                                                                                                                                    | P.W1                   | 02.03.2026 | Nil   |
|     |                                                                                                                                                                                                                                    | D.W's                  | Chief      | Cross |
|     |                                                                                                                                                                                                                                    | Nil                    | Nil        | Nil   |
|     |                                                                                                                                                                                                                                    |                        |            |       |
| 22. | Date of Examination of Accused under Section 351BNSS.                                                                                                                                                                              | 19.06.2026             |            |       |
| 23. | Details of Abscondence of Accused and his Appearance/ Production                                                                                                                                                                   | Nil                    |            |       |
| 24. | Grant of Stay by Superior Court and the results thereof.                                                                                                                                                                           | Nil                    |            |       |
| 25. | Explanation of Delay                                                                                                                                                                                                               |                        |            |       |
|     | The above Complaint was filed on 16.02.2026 on the file of this Court. The Affidavit filed along with the Complaint was treated as Sworn and Pre-Summon Evidence was recorded on 02.03.2026 Cognizance of the offence was taken on |                        |            |       |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| 02.03.2026 and numbered as S.T.C. No. 319 of 2026 and summons was issued to the Accused. Upon furnishing copies to the Accused, Preliminary Questioning was done on 15.04.2026. PW1 was examined in Chief on 02.03.2026. PW1 was not Cross Examined by the Accused. The Accused was Questioned under Section 351 Bharathiya Nagarik Suraksha Sanhita, 2023. The Accused had not let in any Oral and Documentary Evidence. After Closure of Defence Evidence and upon hearing the Arguments on Complainant side and upon perusing the Material Records, the Judgement is pronounced today. |
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This Case came up before this Court on 10.07.2026. Advocate M/s. P.Muneeswarant & S.Mahendran, for the Complainant and the Accused appeared in Person. Upon hearing Complainant side Arguments and Upon perusing the case records and stood over for consideration, till date, this Court delivers the following:

### **JUDGEMENT**

1. The Complainant had filed the above Complaint under Section 200 of Code of Criminal Procedure Read with Section 142 of Negotiable Instruments Act, 1881 for offence punishable under Section 138 of Negotiable Instruments Act, seeking Judgement to Punish the Accused and to award the Cheque Amount as Compensation, to the Complainant, under Section 357 of Code of Criminal Procedure.

2. The Complainant had filed the above Complaint stating that the Complainant and the Accused were acquainted with each other. Based on that, on 15.04.2025, the Accused had received Rs.1,00,000/-(Rupees One Lakh Only) from the Complainant at

Complainant's house, for the Accused's family expenses and other expenses. The Accused had promised that, he will repay the said loan amount in few months. During November 2025, when the Complainant was in need of money for his Urgent Needs, he asked for repayment of that Amount, during such time, the Accused had told that, at present, he do not have money and that he has to get money from another Person and that Once he get it, he will repay the Complainant's money.

3. The Complainant had further stated that when he once again asked for repayment of the Money, on 03.12.2025, the Accused issued Cheque bearing No. 260647, drawn on Tamilnadu Mercantile Bank, Srivilliputtur Branch in the favour of the Complainant. While issuing the Cheque, the Accused informed the Complainant, that he could present the Cheque and realize the Amount. The Complainant deposited the Cheque in his City Union Bank, Srivilliputtur Branch. However on 03.12.2025, the Cheque got returned dishonoured with endorsement "Funds Insufficient". The Accused with malafide intent to defraud the Complainant, without having sufficient funds in his bank account, had issued the Cheque and thereby defrauded the Complainant.

4. On 24.12.2025 the Complainant issued Legal Notice, calling upon the Accused, to pay the dishonoured Cheque amount of Rs.1,00,000/- (Rupees One Lakh Only). On 05.01.2026, the said notice got returned unserved with endorsement "Unserved". The Accused had neither paid the dishonoured Cheque Amount nor issued Reply and thereby committed Offence under Section 138 of Negotiable Instruments Act.

5. Upon taking the Affidavit, filed along with the Complaint, as Sworn Statement and Cognizance of Offence under Section 138 of Negotiable Instrument Act 1881 was taken and the case was taken on file and summons was issued to the Accused. Upon the appearance of Accused, Copy of Complaint was furnished. Preliminary Questioning was done. The Accused had answered as if, he had borrowed only, Rs. 20,000/- (Rupees Twenty Thousand Only) and had given Blank Cheque and that the Accused had repaid that amount, however the Complainant had filled the Blank Cheque and had filed the above case. As the Accused denied the accusation, the Complainant was called upon to prove his case.

6. The Point for consideration is whether the Complainant had proved the accusation, made against the Accused, beyond all reasonable doubts?.

7. The Complainant examined himself as PW1 and exhibited Ex.P1 to P5. The Accused was questioned under Section 351 Bharathiya Nagarik Suraksha Sanhita, 2023. The Accused had not let in any Oral or Documentary Evidence.

8. Ex.P1 is the Aadhar Card of the Complainant bearing No. 4628 2983 5344. The Complainant by exhibiting Ex.P2 Cheque dated 03.12.2025 bearing No.260647 drawn on Tamilnadu Mercantile Bank Limited, Srivilliputtur Branch, Savings Account bearing No.328100050307713, for Rs.1,00,000/- (Rupees One Lakh Only) had proved that the Accused had drawn the Cheque in his Banker. The Complainant by exhibiting Ex. P3, Return Memo dated 03.12.2025, issued by City Union Bank, Srivilliputtur Branch had

proved that, Ex. P2 Cheque was presented for encashment within its validity period and that Ex. P2 Cheque, got returned dishonoured for the reason 'Funds Insufficient'. The Complainant by exhibiting Ex. P4 Legal Notice dated 24.12.2025 along with Postal Receipt, had proved that within thirty days of dishonour, he had made Written Demand, for the dishonoured Cheque amount, from the Accused. The Complainant by exhibiting Ex. P5 Returned Register Cover with endorsement 'Unclaimed' dated 05.01.2026 and Postal Tracking Consignment Report, had proved that Ex. P4 Legal Notice was sent to the Accused and that information regarding that notice was given to the Accused and that the Accused had not claimed it and made it, to be returned with Endorsement 'Unclaimed'.

9. At this juncture, it would be appropriate to extract Proviso (b) to Section 138 Negotiable Instruments Act, 1881 and Section 27 of General Clauses Act, 1897, as follows:-

Proviso (b) to Section 138 Negotiable Instruments Act, 1881: *“(b) the Payee or the holder in due course of the Cheque, as the case may be, 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 thirty days of the receipt of information by him from the bank regarding the return of the Cheque as unpaid and”*

Section 27 of General Clauses Act, 1897: Meaning of Service by Post- *“Where any Central Act or Regulation made after the Commencement of this Act, authorizes or*

*requires any document to be served by post, whether the expression “Serve” or either of the expressions “give” or “Send” or any other expression is used, then unless a different intention appears, the service shall be deemed to be effected by properly addressing pre-paying and posting by registered post, a letter containing the document, and unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the Ordinary Course of Post”.*

10. From the con-joint reading of both the Provision of Law, as extracted above, the Payee or the Holder in Due Course is required to give notice to the Accused, within thirty days from the Knowledge of Dishonour, demanding the Cheque Amount to be paid in Fifteen days, properly addressing pre-paying under Registered Post. In the case on hand, Ex. P4 Notice has been issued within the statutory period demanding the Cheque Amount, the same is Pre-Paid, sent through Registered Post. The Only thing that has to be considered is whether, it is Properly Addressed. As discussed above, Ex. P4 has been addressed to the Accused’s residential Address.

11. Ex.P3 Notice has been Deemed Served on the Accused, as enumerated under Section 27 of the General Clauses, Act, 1897. As discussed, Statute requires the Payee to give notice, the same has been complied with by the Complainant. In case, a contrary stand is taken, the same has to be proved, by the Person, who alleges contrary stand i.e. the Accused, has the burden to prove, things contrary to the deemed service, envisaged under Section 27 of the General Clauses Act, 1897. However the Accused had not come

before this Court, stating as if, he was residing at some other place, while Ex. P4 notice was issued or that, he had no knowledge about Ex. P4 Notice. As discussed above, Ex. P4 Notice has been Deemed Served on the Accused, as per Section 27 of the General Clauses Act, 1897.

12. At this juncture, it would be appropriate to rely on the Judgement of the Hon'ble Supreme Court in C.C.Alavi Haji –vs- Palapetty Muhammed and another reported in 2007(6) SCC 555, wherein the Hon'ble Supreme Court had held that, if the Accused contends that, he had not received the Legal Notice, then the Accused should have come up before this Court to pay the dishonoured Cheque amount, to the Complainant within Fifteen days, from the receipt of this Case summons, if he has to claim leverage of non-receipt of Legal Notice. The Accused had not did so, after his appearance before this Court and receipt of Complaint Copy. Hence the Accused could not contend that, Ex. P4 notice, was not served on him.

13. Though the Accused had entered appearance, he had not come forward to Cross Examine PW1. The Accused in his Preliminarily Questioning had denied the Complainant's Case as false case and also claimed that he had borrowed only, Rs. 20,000/- (Rupees Twenty Thousand Only) and had given Blank Cheque and that he had repaid that amount, however the Complainant had filled the Blank Cheque and had filed the above case. During his questioning under Section 351 Bharathiya Nagarik Suraksha Sanhita, 2023, he had denied PW1's evidence as False Evidence. However he had not let

in any oral or documentary evidence, in defence, to substantiate his claim that he had borrowed only Rs. 20,000/- (Rupees Twenty Thousand Only) and had repaid the same. He had not Cross Examined PW1. As such there is no material evidence before this Court either to make the Complainant's case improbable or to hold that the Accused had rebutted the Statutory Presumptions in favour of the Complainant's Case.

14. The Learned Counsel for the Complainant relied on the Judgement of the Hon'ble Supreme Court in Rangappa –vs- Sri Mohan, reported in 2010(11) SCC 441 and K.S.Ranganatha –vs- Vittal Setty dated 08.12.2021, made in Crl. Appeal No. 1860 of 2011 and argued that the Accused had not rebutted the Statutory Presumptions under Sections 118 and 139 of Negotiable Instruments Act, 1881. The said Citations, applies to the facts of this case. It would also be appropriate to rely on the Judgement of the Hon'ble Supreme Court in Rajesh Jain -vs- Ajay Singh reported in 2024(1) MWN (Cr.) DCC 49 SC, wherein the Hon'ble Supreme Court had held as follows:- “31 *Presumption, on the other hand, literally means “taking as true without examination of proof. In Kumar Exports –vs- Sharma Exports, 2009 (2) SCC 513, this Court referred to Presumption as “devices by use of which Courts are enabled and entitled to pronounce on an issue notwithstanding that there is no evidence or insufficient evidence”.*

15. In that citation, it is also held as follows:- “29. *There are two sense in which the phrase ‘burden of proof’ is used in the Indian Evidence Act, 1872(Evidence Act, hereinafter). One is the burden of proof arising as a matter of pleading and the other is*

*the one which deals with the question as to who has first to prove a Particular Fact. The former is called the 'legal burden' and it never shifts, the latter is called the 'evidential burden' and it shifts from one side to the other. [ See Kundalal v. Custodian Evacuee Property, AIR 1961 SC 1316].*" The statutory provisions under Section 118 and 139 of Negotiable Instruments Act, 1881, will be applicable once the Payee namely the Complainant proves that the Accused had drawn the Cheque. As discussed above, the Accused had admitted his Signature in Ex. P2 Cheque, however had not made, his defence Probable.

16. In view of the discussions made above, this Court holds that the Complainant had proved Ex. P2, Cheque was drawn by the Accused, from the Account maintained by him, in his banker and it was presented for encashment, within its Validity Period and it got returned for the reason "Funds Insufficient" and that the Complainant had caused Ex. P4 Notice, within thirty days from the date of dishonour and called upon the Accused to pay the Cheque Amount, within fifteen days, therefrom and that the Accused had not paid the Cheque Amount, within fifteen days.

17. Hence, this Court is of the considered view, that the Complainant had proved the Complaint i.e. the Accused had committed offences punishable under Section 138 of the Negotiable Instruments Act, 1881. The Accused is guilty of the said Offence. The Complainant apart from praying to Punish the Accused, had also asked to award the Cheque amount as Compensation. In view of the Dishonour of the Cheque, the natural

loss or damage, that the Complainant would have suffered, would be the Cheque Amount. Hence this Court is of the Considered view that the Complainant would be sufficiently compensated, if the Cheque amount is ordered to be paid as damages.

In the result,

(i) the Accused is found guilty of Offence under Section 138 of Negotiable Instruments Act, 1881, for dishonour of Ex. P2 Cheque and a Judgement of Conviction is passed under Section 255(2) of Code of Criminal Procedure and the Accused is convicted and sentenced to undergo One Year Simple Imprisonment and

(ii) the Accused is also directed to pay Compensation of Rs.1,00,000/- (Rupees One Lakh Only), to the Complainant under Section 357(3) of the Code of Criminal Procedure, within One Month from today, in default, the Accused shall undergo One Month Simple Imprisonment.

Dictated to the Typist, Directly and Typed by her, in Computer corrected and pronounced by me in Open Court this, the 31<sup>st</sup> day of July 2026.

Judicial Magistrate, Fast Track Court  
Srivilliputtur.

**Complainant Side Witnesses:**

1. PW1 -Chandrasekar

**Complainant Side Documents:**

|        |            |                                                                                                                  |
|--------|------------|------------------------------------------------------------------------------------------------------------------|
| Ex. P1 | ---        | Complainant's Aadhar Card bearing No.4628 2983 5344                                                              |
| Ex. P2 | 03.12.2025 | Cheque bearing No.260647 drawn on Tamilnadu Mercantile Bank, Srivilliputtur Branch for Rs.1,00,000/- (Rupees One |

|        |            |                                                                                 |
|--------|------------|---------------------------------------------------------------------------------|
|        |            | Lakhs Only), in favour of the Complainant                                       |
| Ex. P3 | 03.12.2025 | Return Memo issued by the Complainant bank                                      |
| Ex. P4 | 24.12.2025 | Legal Notice along with Postal Receipt issued by the Complainant to the Accused |
| Ex. P5 | 05.01.2026 | Returned Register Cover and Postal Tracking Consignment Report                  |

**Defence Side Witnesses & Documents** :- Nil

Judicial Magistrate, Fast Track Court  
Srivilliputtur.

**NOTE:** Since the Accused had appeared as Party in Person, apart from furnishing Free Copy of the Judgement, he was informed that Appeal from this Judgement, lies before the Hon'ble Principal District and Sessions Judge, Virudhunagar @ Srivilliputtur.

**Cover Sheet Annexed to Judgement / Order**

|     |                                                                                                    |                                                                                                                             |
|-----|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| 1.  | Name of the Court                                                                                  | Judicial Magistrate, Fast Track Court, Srivilliputtur                                                                       |
| 2.  | Case Number                                                                                        | S.T.C.No. 319 of 2026                                                                                                       |
| 3.  | Date of Judgment of Conviction / Dismissal / Reversal of Acquittal / Dismissal of Bail Application | 31.07.2026                                                                                                                  |
| 4.  | Name of Person Convicted // Acquittal Reversed / Bail Denied / Bail Cancelled                      | Abdul Rahim Sheik Dawood                                                                                                    |
| 5.  | Contact Address of Legal Aid Committee of Court Complex in which the above Court is Situated.      | The Chairman/ Principal District Judge,<br>District Legal Services,<br>Virudhunagar District Authority at<br>Srivilliputtur |
| 5a. | Designation of the Person to be Contacted                                                          | The Chairman/ Principal District Judge,<br>District Legal Services,<br>Virudhunagar District Authority at<br>Srivilliputtur |
| 6.  | Phone No of above Legal Aid Committee (between 10am to 5.45pm)                                     | 04563260310,<br>04563260311                                                                                                 |
| 7.  | Alternative Mobile No. of Legal Aid Committee.                                                     | 6380110028                                                                                                                  |

Judicial Magistrate, Fast Track Court  
Srivilliputtur.