IN THE COURT OF THE JUDICIAL MAGISTRATE, KOMARAPALAYAM

**Present : Tmt.A.K.Padmapriya, B.Sc, M.L.,
Judicial Magistrate, komarapalayam**

Friday, the 14th day of August - 2026

STC.No.970/2022

CNR No :TNNM16-001605-2022

R.Palanisamy (45),
S/o.Raju,
D.No.5/696, Bharathi Nagar,
Veppadai, Elanthakuttai,
Kumarapalayam,
Namakkal. ...Complainant

//Vs//

P.Subramani (47),
S/o.Palaniappan,
Proprietor of ABI Tex,
D.No.3/453(1), Melchittur,
Chittur,
Edapadi,
Salem. …Accused

This case was taken on file on 11.07.2022 and came for final hearing before me on 04.08.2026 in the presence of **Thiru.S.Raja,** the learned counsel for the complainant and **Thiru.K.Dheenadhayalan,** the learned counsel for the accused and upon hearing arguments and on perusing the entire records and having stood over for consideration till this day, this court doth the following

JUDGMENT

1. The complainant had filed this complaint against the accused for an offence of dishonour of cheque bearing No.057165 dated 26.04.2022 for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) which is punishable under section 138 of Negotiable

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Instruments Act through a private complaint Under Section 200 of Cr.P.C.

2. GIST OF THE COMPLAINT :-

2.1. The accused is a well known person to him for the past several years and the accused is doing textile business in the name and style of ABI TEX. The accused is the sole proprietor and authorised signatory of ABI TEX. Based upon the acquaintance on 26.02.2022, the accused have borrowed a sum of Rs.5,00,000/- from the complainant to repay the same through cheque on 26.04.2022.

2.2. In order to discharge the liability towards the above said borrowed amount of Rs.5,00,000/- that on the same day of borrowing i.e., 26.02.2022, the accused had issued cheque drawn on Axis Bank Ltd, Edapadi branch, bearing Number 057165 dated 26.04.2022 for a sum of Rs.5,00,000/- in favour of the complainant. In pursuant to the instructions from the accused, the complainant had presented the above said cheque at 'ICICI Bank' Pallipalayam branch on 05.05.2022 but the same was dishonoured and returned as 07.05.2022 as 'The account is closed/frozen'.

2.3. On 30.05.2022, the complainant had issued statutory notice to the accused calling upon the accused to pay the said dishonoured cheque amount of Rs.5,00,000/- to the complainant within 15 days from the date of receipt of the said notice. The said notice addressed to the accused has also been duly served upon the accused on 31.05.2022. But, within the period of 15 days from the date of such receipt of the said legal notice, the accused has neither come forward to make payment of the cheque amount demanded in the legal notice, nor preferred to issue reply. The accused had issued the cheque with full knowledge and intention to cheat the complainant and therefore the accused had committed an offence punishable under section 138 of the Negotiable Instruments Act and the accused may be punished for the dishonour of cheque with maximum sentence and he may be directed to pay the cheque amount as compensation to the complainant.

3. <u>QUESTIONING U/S 251 of Cr.P.C.</u>

On receipt of the complaint, sworn statement was recorded and cognizance was taken for offence under section 138 of the Negotiable Instrument Act and process was issued against the accused along with copy of complaint u/s 207 of Cr.p.c. On appearance, the accused was furnished with the copies of the documents relied upon by the complainant and the accused was questioned as to the substance of accusation made in the complaint. The accused denied the case as false and claimed to be put on trial.

<u>4.COMPLAINANT SIDE EVIDENCE:</u>

The complainant in order to prove his case, the complainant examined himself as PW1 and EX.P1 to EX.P.4 was marked through him.

<u>5. THE CASE OF THE COMPLAINANT AS PER THE EVIDENCE IS AS FOLLOWS:</u>

5.1. To prove the case of the complainant, he had examined himself on filing of proof affidavit which is the verbatium of the complaint. The complainant had deposed as the accused is a well known person to him for the past several years and the accused is doing textile business in the name and style of ABI TEX. The accused is the sole proprietor and authorised signatory of ABI TEX. Based upon the acquaintance on 26.02.2022, the accused have borrowed a sum of Rs.5,00,000/- from the complainant to repay the same through cheque on 26.04.2022. In order to discharge the liability towards the above said borrowed amount of Rs.5,00,000/- that on the same day of borrowing i.e., 26.02.2022, the accused had issued **EX.P.1 cheque drawn on Axis Bank Ltd, Edapadi branch, bearing Number 057165** dated 26.04.2022 for a sum of Rs.5,00,000/- in favour of the complainant. In pursuant to

A K PADMAPRIYA Digitally signed by A K PADMAPRIYA Date: 2026.08.14 16:52:22 +0530 the instructions from the accused, the complainant had presented the above said cheque at 'ICICI Bank' Pallipalayam branch on 05.05.2022 but the same was dishonoured and returned as 07.05.2022 as 'The account is closed/frozen'. The **return memo** was marked as **EX.P.2**.

5.2. On 30.05.2022, the complainant had issued **EX.P.3 statutory notice** to the accused calling upon the accused to pay the said dishonoured cheque amount of Rs.5,00,000/- to the complainant within 15 days from the date of receipt of the said notice. The said notice addressed to the accused has also been duly served upon the accused on 31.05.2022. The **postal Acknowledgment card** was marked as **EX.P.4.** But, within the period of 15 days from the date of such receipt of the said legal notice, the accused has neither come forward to make payment of the cheque amount demanded in the legal notice, nor preferred to issue reply. The accused had issued the cheque with full knowledge and intention to cheat the complainant and therefore the accused had committed an offence punishable under section 138 of the Negotiable Instruments Act and the accused may be punished for the dishonour of cheque with maximum sentence and he may be directed to pay the cheque amount as compensation to the complainant.

6. <u>QUESTIONING U/S 313(1) (b) of Cr.P.C:</u>

On completion of the complainant side evidence, the accused was questioned U/S.313(1)(b) of Cr.P.C regarding the incriminating evidence against him and he had denied the same as false evidence.

<u>7. ACCUSED SIDE EVIDENCE:</u>

The Bank Manager of the Axis Bank, Edapadi branch was examined as DW1 and EX.D.1 and EX.D.2 was marked. One Independant witness Karthick was examined as DW2 and Ex.D.3 was marked. The Bank Manager of the ICICI Bank, Pallipalayam branch was examined as DW3 and EX.D.4 was marked.

8. THE CASE OF THE ACCUSED AS PER THE EVIDENCE IS AS FOLLOWS:

8.1. The Independant witness who was examined as DW2 had deposed as that the accused is his uncle. DW2 and the accused and one Paruvatham had jointly done business in the name of Sri Laxmi Narayana textiles. To prove the same, the partnership deed was marked as EX.D.3. The accused had given EX.P.1 Cheque to DW2 for borrowing of amount having made the signature alone. DW2 had handed over the cheque to one Saravanan and borrowed Rs.2,00,000/- and the cheque that was given to Saravanan was not got back and the said information was also passed to the accused.

9. ARGUMENTS ADVANCED BY THE COMPLAINANT:

The learned counsel for the complainant had argued that the complainant had proved his case beyond reasonable doubt. The learned counsel for the complainant contended that the presumption available in favor of the complainant is not rebutted. The accused had stated that the cheque was issued to one Saravanan and on repayment of the amount, he had not return back the cheque. But to prove the same, no evidence was let in. The contentions raised by the accused is not proved. Hence, the accused is liable to be punished for dishonour of the cheque u/s 138 of Negotiable Instruments Act.

10. ARGUMENTS ADVANCED BY THE ACCUSED:

The accused had contended that the cheque was not issued to the complainant for legally enforceable debt. The cheque was issued to one Saravanan and the same was also proved through DW2. The complainant had stated that the accused was known for several years. But in the cross examination, he had stated that the accused was known to him through Saravanan only before two days from the alleged date of borrowing which would eventually falsify the case of the complainant. The other ascending cheques were passed on. The said cheque was given in the year 2018 and already the account was closed. The cheque that was issued as surety was used by the complainant and the said false case was lodged.

11. POINTS FOR CONSIDERATION:

Whether the complainant has proved his case, beyond reasonable doubt that the accused had issued EX.P.1 in favour of the complainant to satisfy a legally enforceable debt, which existed between the complainant and the accused ?

12. ANSWER TO THE POINT:

12.1. Heard both sides. Records perused. On considering the complaint for the substance of accusation against the accused for offence of dishonour of cheque, initially, the ingredients for constituting the offence under section 138 of the Negotiable Instruments Act has to be analysed. It read as follows:

1) Cheque must have drawn on an account maintained by the accused in bank.
2) Cheque should have been issued for discharge, in whole or in part, of any debt or other liability.
3) Cheque was presented in the bank within a period of its validity.
4) Cheque was returned by the bank unpaid due to insufficient fund or exceeds the amount arranged to be paid from that account.
5) Notice in writing, was served to the drawer of the cheque, within 30 days.
6) Drawer of such cheque fails to make payment of the said amount of money within 15 days of the receipt of the notice.

Only if all the above mentioned ingredients are satisfied, the person who had drawn the cheque can be deemed to have committed an offence under section 138 of the Negotiable Instruments Act.

12.2. The case of the complainant is that the accused is a well known person to him for the past several years and the accused is doing textile business in the name and style of ABI TEX. The accused is the sole proprietor and authorised signatory of ABI

TEX. Based upon the acquaintance on 26.02.2022, the accused have borrowed a sum of Rs.5,00,000/- from the complainant to repay the same through cheque on 26.04.2022. In order to discharge the liability towards the above said borrowed amount of Rs.5,00,000/- that on the same day of borrowing i.e., 26.02.2022, the accused had issued **EX.P.1 cheque drawn on Axis Bank Ltd, Edapadi branch, bearing Number 057165** dated 26.04.2022 for a sum of Rs.5,00,000/- in favour of the complainant. In pursuant to the instructions from the accused, the complainant had presented the above said cheque at 'ICICI Bank' Pallipalayam branch on 05.05.2022 but the same was dishonoured and returned as 07.05.2022 as 'The account is closed/frozen'. The **return memo** was marked as **EX.P.2**.

12.3. On 30.05.2022, the complainant had issued **EX.P.3 statutory notice** to the accused calling upon the accused to pay the said dishonoured cheque amount of Rs.5,00,000/- to the complainant within 15 days from the date of receipt of the said notice. The said notice addressed to the accused has also been duly served upon the accused on 31.05.2022. The accused had not issued reply notice nor repaid the amount. Hence, the complainant had filed this false case.

12.4. On perusal of cheque, EX.P.1, it was drawn by the accused from the account holding Axis bank, Edapadi branch. It specified the bank account number of the accused and the name of the firm of the accused. There is no dispute regarding the fact that the account number mentioned in cheque belonged to the accused. On perusal of Ex.P1 cheque, it specified the date as 26.04.2022 and it was presented in complainant's account holding bank on 05.05.2022. The validity period of cheque is three months, therefore, Ex.P1 was presented in bank within validity period. On perusal of EX.P2, it is seen the cheque was returned as **" account closed/frozed"** on 07.05.2022. The dishonour of Ex.P1 was communicated to the accused on 30.05.2022 through EX.P3. On perusal of EX.P.3 it comes to know that the legal notice was issued to the accused demanding cheque amount on 30.05.2022. It shows that the notice was issued within 30 days. It was received under EX.P.4 on 31.05.2022 and thereafter, accused had not issued reply notice. From this date, the 15 days lapsed on 15.06.2022. The complaint was filed in time on 28.06.2022. The accused had admitted the signature in the cheque as that of him in his questioning under section 313 of Cr.P.C. Hence, this court hold that the cheque in question is that of the accused.

12.5. In **APS Forex Services Pvt Ltd Vs Shakthi International fashion linkers (2020 SCC online SC 193),** the Hon'ble Supreme Court of India held that,

> **"5 ....Once the accused has admitted the issuance of chequewhich bears his signature, there is presumption that there exist a legally enforceable debt or liability under Sec 139 of the NI Act. However, such a presumption is rebuttable in nature and the accused is required to lead the evidence to rebut such a presumption"**

On reading of above principle and as held by Honourable Supreme Court in **Rangappa Vs. Sri Mohan, (2010) 11 page 441 and M.S,Narayana Menon Vs State of Kerala (2006 (6) SCC 39) and Basalingappa Vs Mudibasappa (2019 (5) SCC 418),** when the accused admitted signature, then the presumption exist as legally enforceable debt. In the present case, this court concluded that the signature in the cheque is that of the accused. This clearly, establishes that the complainant had proved the ingredients for offence under section 138 of the Negotiable Instrument Act. Therefore, this court is of considered view to draw the initial statutory presumption in favour of the complainant that there exists a legally enforceable debt or liability. As the initial presumption is available in favour of the complainant, it is the duty cast upon the accused to rebut the presumption by way of producing appropriate evidences.

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12.6. The presumption under section 139 is a rebuttable presumption and the onus is on the accused to raise the probable defence. The standard of proof for rebutting the presumption is that of prepondarance of probabilities. To rebut the presumption, it is open to the accused to rely on evidence led by him or the accused can also rely on the materials submitted by the complainant in order to raise a probable defence. Inference of preponderance of probabilities can be drawn not only from the materials brought on record by the parties but also by reference to the circumstances upon which they rely.

12.7. The defence raised by the accused is that he had issued only the blank cheque to one Saravanan and hence, it is not for legally enforceable debt. In **Bir Singh Vs Mukesh Kumar CDJ 2019 SC 148,** it had been held that

"A meaningful reading of the provision of the Negotiable Instrument Act, including in particular section 20, 87 and 139 makes it amply clear that a person who signs a cheque and makes it amply clear that a person who signs a cheque and makes it over to the payee remains liable unless he adduces evidence to rebut the presumption that the cheque had been issued for payment of a debt or incharge of a liability. ***It is immaterial that the cheque may have been filled in by any person other than the drawer, if the cheque is duly signed by the drawer. If the cheque is otherwise valid, the penal provision of section 138 would be attracted.***

If a signed blank cheque is voluntarily presented to a payee, towards some payment, the payee may fill up the amount and other particulars. This in itself would not invalidate the cheque. *The onus would still be on the accused to prove that the cheque was not in discharge of a debt or liability by adducing evidence. .... 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 Instrument Act, in the absence of any cogent evidence to show that the cheque was not issued incharge of a debt".*

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12.8. On reading of above principle, the holder of the cheque has to be presumed that it is received for discharge of debt or liability even in the case of issuance of blank cheque until the contrary is proved. The accused to prove the fact that the cheque was issued to Saravanan had examined DW2. DW2 had deposed as that, the accused is his uncle. DW2 and the accused and one Paruvatham had jointly done business in the name of Sri Laxmi Narayana textiles. To prove the same, the partnership deed was marked as EX.D.3. The accused had given EX.P.1 Cheque to DW2 for borrowing of amount having made the signature alone. DW2 had handed over the cheque to one Saravanan and borrowed Rs.2,00,000/- and the cheque that was given to Saravanan was not got back and the said information was also passed to the accused. DW2 had stated that the amount was settled to said Saravanan. If actually the amount was settled to Saravanan, what steps had been taken by the accused to get back the cheque was not stated out. Also, it was contended that the cheque was issued to Saravanan in the year of 2018 itself and the other cheques in the ascending number are passed on. EX.D.2, the cheque book outleaf with some cheque leaf are marked on the side of the accused. On perusal of it, it is seen that, the cheque no.057142 was still placed in the book and the cheque leaf after the said number are passed. Hence, it could be inferred that all the cheques are not passed orderly. Hence, the contention of the accused that the cheque was issued in the year of 2018 is not acceptable one. Hence, the contention of the accused that the cheque was given to Saravanan was misused by the complainant.

12.9. In the circumstances, unless and until the contrary to the issuance of cheque under Ex.P1 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 further, this cheque has been issued for discharge of whole or part of the legally enforceable debt or liability. These presumption are available to the complainant under Section 118 and 139 of the Negotiable Instruments Act. Mere asking of suggestion and bare denial by the accused without adducing any proper evidence is not acceptable and appreciable. In these circumstances, this court is of considered view that the complainant has proved the offence under Section 138 the Negotiable Instrument Act against the accused beyond reasonable doubt.

13. RESULT :

In the result, the accused is found guilty for offence under Section 138 of the Negotiable Instruments Act. The accused is convicted as per Section 255(2) Cr.p.c. The accused when questioned about the sentence had pleaded for lesser sentence. Considering the facts and circumstances of the case, the accused is sentenced to undergo simple imprisonment for a period of **one year.** The accused shall pay a sum of **Rs.5,00,000/-(Rupees Five lakhs)** as compensation under Section 357 Cr.p.c within 30 days from this date. In default the accused shall undergo a simple imprisonment for **three months** in addition to the sentence passed No fine is imposed. Copy of Judgment furnished to the accused free of cost.

Directly typed by me in the computer, corrected and pronounced by me in the open court on 14th day of August 2026.

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Judicial Magistrate,
Komarapalayam.

Complainant side witnesses:

PW1	Thiru.R.Palanisamy (45), S/o.Raju

List of Complainant side Exhibits:

Ex P1	Axis Bank, Edapadi Branch Cheque No.057165

Ex P2	Return Memo
Ex P3	Legal Notice
Ex P4	Acknowledgment Card

Defence side witnesses

DW1	Thiru.Sakthivel (Axis Bank Manager)
DW2	Thiru.Karthick S/o.Duraisamy
DW3	Thiru.Naveenkumar (ICICI Bank Manager)

List of Defence side Exhibits:

ExD1	Account Statement
Ex D2	Cheque book.
Ex D3	Photocopy of Partnership deed compared with original
Ex D4	Account statement

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Judicial Magistrate,
Komarapalayam.

Note:

1. The result of the case is intimated to the complainant.
2. No witnesses were detained for more than 3 hearings.
3. Copy of judgment furnished to the accused free of cost.
4. Bond executed under section 88 of Cr.p.c to be cancelled.

Judicial Form No.61
(See Rule 106)
IN THE COURT OF THE JUDICIAL MAGISTRATE COURT, KUMARAPALAYAM.
JUDGMENT IN STC NO.970/2022
ON THE FILE OF THE JUDICIAL MAGISTRATE COURT, KUMARAPALAYAM.

Complainant :	Thiru.R.Palanisamy (45), S/o.Raju
Accused :	Thiru.P.Subramani (47), S/o.Palaniappan
Offence :	U/s.138 of the Negotiable Instruments Act
Finding :	This court find Accused guilty for offence under Section 138 of the Negotiable Instruments Act.
Sentence/order:	The accused is found guilty for offence under Section 138 of the Negotiable Instruments Act. The accused is convicted as per Section 255(2) Cr.p.c. The accused when questioned about the sentence had pleaded for lesser sentence. Considering the facts and circumstances of the case, the accused is sentenced to undergo simple imprisonment for a period of **one year.** The accused shall pay a sum of **Rs.5,00,000/-(Rupees Five lakhs Only)** as compensation under Section 357 of Cr.p.c within 30 days from this date. In default, the accused shall undergo a simple imprisonment for **three months** in addition to the sentence passed. No fine is imposed. Copy of Judgment furnished to the accused free of cost.

Description of the Accused

Sl. No.	Name	Father's Name	Occupation	Residence Address	Age
1.	P.Subramani	S/o.Palaniappan	Business	Proprietor of ABI Tex, D.No.3/453(1), Melchittur, Chittur, Edapadi, Salem.	47

DATE OF							EXPLANATION OF DELAY AND REMARKS
Offence	Report of complaint	Apprehension of accused	Release on bail	Commencement of trial	Close of trial	Sentence or order	138 NI Act Taken on File 11.07.2022
07.05.2022	28.06.2022	-	-	08.03.2023	04.08.26	14.08.2026	

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Judicial Magistrate,
Komarapalayam.

CASE SUMMARY		
Sl. No.	**Description**	**Remarks**
1.	Period of Remand of the Accused	NIL
2.	The date of filing of the Complainant/final report of the Court	28.06.2022
3.	The date of committal of the case to the court of Session	Nil
4.	The date of questioning of the accused under Sections 228,240,246,251 of the Code of Criminal Procedure. 1973, as the case maybe	05.01.2023
5.	Filing of miscellaneous petitions an their results inculding the results on challenge before superior Courts. Except routine petitions like petitions Under Section 317 of the code	1) CMP.No.9944/2022 dated.30.12.2022 U/s.70(2) of Cr.P.C petition filed and allowed. 2) MP.No.5/2025 dated.24.03.2025 U/s.348 of BNSS petition filed and allowed. 3) MP.No.9/2025 dated.21.01.2026 U/s.91 of Cr.P.C petition filed and allowed. 4) CMP.No.21/2026 and CMP.No.23/2026 dated.15.06.2026 U/s.243(2) of Cr.P.C petition filed and allowed.
6.	Date of examination in-chief and cross-examination of a witness	**Witness** / **Chief** / **Cross** **PW1** / 08.03.23 / 23.07.25, 15.10.25 **DW1** / 25.03.26 / 25.03.26 **DW2** / 19.05.26 / 19.05.26 **DW3** / 14.07.26 / 14.07.26
7.	Date of examination of the accused Under Section 313 of the code	13.02.2026
8.	Details of abscondence of an accused and his appearance/production, as the case maybe	29.08.2022 – 30.12.2022
9.	Grant of stay by Superior Courts and the results thereof	Nil

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Judicial Magistrate,
Komarapalayam.

<u>STC 970/2022</u>