IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	18.06.2026
Pronounced on	13.07.2026

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

CRL.A.No.702 of 2018

Vijay Jain ... Appellant / Respondent / Complainant

Vs.

Thilagavathy ... Respondent / Appellant / Accused

Criminal Appeal filed under Section 378 of the Criminal Procedure Code, to set aside the Order of acquittal dated 25.04.2018 made in C.A.No.291 of 2017 on the file of the I Additional District and Sessions Court, Erode, reversing the Order dated 30.10.2017 made in S.T.C.No.106 of 2016 on the file of the Judicial Magistrate (Fast Track Court No.2), Erode.

For Appellant : Mr.R.Shase

For Respondent : Mr.A.K.Kumarasamy
Senior Counsel
For Mr.S.Kaithamalai Kumaran

JUDGMENT

The Appellant / Complainant is aggrieved by the impugned judgment dated 25.04.2018 passed by the Learned I Additional District and Sessions Judge, Erode, in Criminal Appeal No.291 of 2017 filed by the Respondent / Accused.

2. By the impugned judgment, the Appellate Court reversed the judgment of the Learned Judicial Magistrate (Fast Track Court No.II), Erode in S.T.C.No.106 of 2016 dated 30.10.2017 convicting the Respondent/Accused for the offence punishable under Section 139 of the Negotiable Instruments Act, 1881.

3. The Operative portion of the impugned judgment dated 25.04.2018 of the Appellate Court reads as under:

"80. In the result

1. The appeal is allowed.

2. The Judgment of conviction and sentence passed by the learned Judicial Magistrate Fast Track Court No.II, Erode min STC No. 106/2016, Dated 30.10.2017 is hereby set aside.

3. The respondent / complainant not proved the accusation against the appellant / accused U/s. 138 of the Negotiable Instrument Act beyond all reasonable doubt.

4. Hence, the appellant/accused is acquitted of the accusation U/s 138 of the Negotiable Instrument Act and set at liberty.

5. The learned Judicial Magistrate, Fast Track Court No.II is directed to refund the fine amount of Rs.5,000/- paid by the appellant/accused to the appellant/accused forthwith.

6. The bail bonds if any executed by the appellant/accused shall stand cancelled."

4. The Trial Court, by its Order dated 30.10.2017 in S.T.C.No.106 of 2016, had earlier convicted the Respondent herein (Accused therein) for the offence under Section 138 of the Negotiable Instruments Act, 1881.

5. Before the Trial Court, on behalf of the Appellant / Complainant, the Appellant/Complainant examined himself as PW1, and one Mr.C.Eswaramoorthy, the Notary Public before whom Ex.P8-Sale Agreement, dated 13.01.2014 was signed by the Respondent/Accused and witnessed by DW1, was examined as PW2. The Appellant/Complainant marked Exs.P1 to P11, as detailed below:

1.	Ex.P1	15.10.2015	Original Cheque bearing No.969445 received from Syndicate Bank, Erode Branch
2.	Ex.P2	13.10.2015	Original Cheque bearing No.969446 received from Syndicate Bank, Erode Branch
3.	Ex.P3	30.10.2015	Cheque Return Memo
4.	Ex.P4	14.10.2015	Cheque Return Memo
5.	Ex.P5	06.11.2015	Advocate Notice
6.	Ex.P6	06.11.2015	Postal Receipt

7.	Ex.P7	11.11.2015	Return Cover
8.	Ex.P8	13.01.2014	Copy of the Sale Agreement executed between the Petitioner and the Respondent
9.	Ex.P9		Copy of the Photograph taken on 01.05.2014, when Logasamy (DW1) visited the petitioner's marriage
10.	Ex.P10		Registration copy of the agreement between Thilagavathy and Vijay Jain dated 13.01.2014, recorded in Book No.25, Serial No.826
11.	Ex.P11		Copy of the Sale Agreement notarized by the Advocate

6. On behalf of the Respondent / Accused, one Logasamy, who was a witness to Ex.P8-Sale Agreement, dated 13.01.2014, was examined as DW1, Mrs.Rajasulochana, Sub Inspector of Police, Land Grabbing Cell, was examined as DW2 and one Moorthy was examined as DW3. The respondent also marked Exs.D1 to D9, as detailed below:

1.	Ex.D1	Copy of FIR
2.	Ex.D2	Certified copy of the Complaint given by Moorthy to the District Superintendent of Police on 31.10.2014
3.	Ex.D3	Certified copy of the deposition of Logasamy
4.	Ex.D4	Certified copy of the deposition of Periyasamy
5.	Ex.D5	Certified Copy of the deposition of Moorthy
6.	Ex.D6	Certified Copy of the deposition of Rajkumar
7.	Ex.D7	Certified copy of the Sale Deed executed by Raja in favour of Lalithkumar Jain on 11.12.2012.
8.	Ex.D8	Certified copy of the Mortgage Deed executed by Raja in favour of Lalit Kumar Jain on 11.12.2012 for a sum of Rs.1,00,000/-
9.	Ex.D9	Certified copy of the General Power of Attorney executed in favour of Vijay Jain, the son of Lalit Kumar Jain

7. The Trial Court has primarily come to the conclusion that the Respondent/Accused failed to rebut the statutory presumption in favour of the Appellant/Complainant as contemplated under Section 139 of the Negotiable Instruments Act, 1881, by pointing out contradictions in the date and time of the alleged execution of Ex.P8-Sale Agreement dated 13.01.2014, and the circumstances under which it was stated to be executed by the Respondent / Accused.

8. Specifically, the Trial Court has noted the contradiction elicited during the cross-examination of DW2 (Mrs.Rajasulochana, Sub Inspector of Police, Land Grabbing Cell, Erode). During the course of cross-examination, the DW2 admitted that the date in the Ex.D2-Police Complaint dated 30.10.2014 (actually 31.10.2014) by DW3 was overwritten by substituting the date 28.10.2014, while mentioning the occurrence prior to six months.

9. That apart, the Trial Court has found fault with the Respondent/Accused for failing to file a complaint against the alleged coercion by the Appellant/Complainant and his father, Mr.Lalit Kumar Jain, in the execution of Ex.P8-Sale Agreement, dated 13.01.2014 and in the

complaint marked as Ex.D2 by DW3 on 30.10.2014, as noted in the impugned judgment.

10. The Trial Court has also found fault with the Respondent/Accused in failing to issue any stop-payment instructions to her bank after the dates prescribed in Ex.P1 (Cheque No.969445 dated 15.10.2015 for a sum of Rs.40,00,000/-) and Ex.P2 (Cheque No.969446 dated 13.10.2015 for a sum of Rs.10,00,000/-), were issued and presented for clearance.

11. It was specifically observed by the Trial Court that there was a huge delay in filing the Ex.D2-Police Complaint dated 30.10.2014 (actually 31.10.2014) by DW3 after Ex.P8-Sale Agreement dated 13.01.2014. The Trial Court has also observed that even though the defence of the Respondent/Accused was that there was a coercion, no complaint was given in this regard prior to Ex.D2-Police Complaint dated 30.10.2014 (actually 31.10.2014) by DW3, the husband of the Respondent/Accused.

12. The Trial Court has also found that the signatures in Ex.P8-Sale Agreement dated 13.01.2014 and Exs.P1 & P2-Cheques dated 15.10.2015 & 13.10.2015 were admitted by the Respondent/Accused, and that the defence,

that only a photocopy of Ex.P8-Sale Agreement dated 13.01.2014 was marked, was not sufficient to disprove either the execution of the said sale agreement or Exs.P1 & P2-Cheques dated 15.10.2015 & 13.10.2015.

13. The Trial Court has relied on the following decisions to uphold the conviction:-

> ***i) The Doveton-Corrie Protestant Schools Association v. Dr. Prof. Geoffery K. Francis [2012 (6) CTC 648]***
>
> ***ii) Shivheri Lkhande Vs. Prabha Singh [2017 (1) MWN (Cri) Dec 190 (MP)]***

14. In other words, the Trial Court has come to the conclusion that although Ex.P8-Sale Agreement dated 13.01.2014 was neither registered nor its original produced, its content can be admitted as a secondary evidence and can be looked into in view of Section 17 read with Section 49 of the Registration Act, 1908.

15. The defence that the Appellant/Complainant had no means to lend Rs.50 lakhs to the Respondent/Accused by producing necessary income tax records has been considered to be irrelevant by the Trial Court, following the

decision of this Court in ***T.R. Palanisamy v. Hariharan [2012 (2) MWN (Cr.) DCC 141 (Mad.)]***.

16. As far as the defence regarding the capacity to give money and the failure on the part of the Appellant/Complainant to produce income tax records are concerned, the issue is now squarely covered against the Respondent/Accused in view of the recent decision of the Hon’ble Supreme Court in ***Sanjabij Tari vs. Kishore S.Borcar and Another [2025 SCC OnLine SC 2069]***. The Hon'ble Supreme Court held as under:

> *“15. In the present case, the cheque in question has admittedly been signed by the Respondent No.1-Accused . This Court is of the view that once the execution of the cheque is admitted, the presumption under Section 118 of the NI Act that the cheque in question was drawn for consideration and the presumption under Section 139 of the NI Act that the holder of the cheque received the said cheque in discharge of a legally enforceable debt or liability arises against the accused. It is pertinent to mention that observations to the contrary by a two Judges Bench in Krishna Janardhan Bhat vs. Dattatraya G.Hedge (2008) 4 SCC 54 have been set aside by a three Judges Bench in Rangappa (supra).*
>
> .....
>
> *19. Recently, the Kerala High Court in P.C. Hari vs. Shine Varghese & Anr., 2025 SCC OnLine Ker 5535 has taken the view that a debt created by a cash transaction above Rs. 20,000/- (Rupees Twenty Thousand) in violation of the provisions of Section 269SS of the Income Tax Act, 1961 (for short 'IT Act, 1961') is not a ‘legally enforceable debt’ unless there is a valid*

explanation for the same, meaning thereby that the presumption under Section 139 of the Act will not be attracted in cash transactions above Rs. 20,000/- (Rupees Twenty Thousand).

20. However, this Court is of the view that any breach of Section 269SS of the IT Act, 1961 is subject to a penalty only under Section 271D of the IT Act, 1961. Further neither Section 269SS nor 271D of the IT Act, 1961 state that any transaction in breach thereof will be illegal, invalid or statutorily void. Therefore, any violation of Section 269SS would not render the transaction unenforceable under Section 138 of the NI Act or rebut the presumptions under Sections 118 and 139 of the NI Act because such a person, assuming him/her to be the payee/holder in due course, is liable to be visited by a penalty only as prescribed. *Consequently, the view that any transaction above Rs.20,000/- (Rupees Twenty Thousand) is illegal and void and therefore does not fall within the definition of 'legally enforceable debt' cannot be countenanced. Accordingly, the conclusion of law in P.C. Hari (supra) is set aside."*

17. The Appellate Court has reversed the decision of the Trial Court on various grounds, as follows:

GROUNDS/ISSUES	TRIAL COURT FINDINGS AND CONVICTION	APPELLATE COURT REVERSAL
1. Rebuttal of Presumption & Coercion	1.Rejected the defense of coercion. 2.The court noted substantial **contradictions in the dates and times** provided by defense witnesses (DW1). 3.Furthermore, the court placed weight on the fact that despite allegations of ongoing threat, the **formal complaint was delayed by 10 months**	1.Held that the defense successfully rebutted the Section 139 statutory presumption by establishing standard "preponderance of probabilities". 2.The testimonies of DW1 and DW3 established that the **cheques were obtained by the**

	and the investigation was incomplete. 4.Crucially, the accused failed to execute a **"stop payment"** order with the bank. **Para 20, 23**	**Appellant / Complainant under coercion** and threat, and were not issued to discharge any legally enforceable debt. **Para 39, 40**
2. Admissibility of Unregistered Sale Agreement	1.Ruled the document admissible. 2.The court held that even an unregistered sale agreement can be legally admitted as evidence for **collateral purposes**. **Para 24**	1.Ruled that by operation of law from 01.12.2012 onwards, all agreements for the sale of immovable property are compulsorily registrable. 2.**The choice to bypass the Registrar and execute the document (Ex.P8) before a Notary Public strongly corroborates the defense's version** that it was obtained by exercising threat and coercion. **Para 44, 51, 55, 56**
3. Notary Formalities & Financial Receipt	**1.Relied strictly on the signature and the issuance of the physical cheque, which were not explicitly disputed by the accused.** 2.The technical defects of the document execution were not considered fatal. **Para 25, 27**	1.Identified severe technical defects: **Ex.P8 completely lacked the Notary Advocate's book or serial number**, unlike Ex.P10 (Serial No. 826, Book No. 25). 2.Critically, PW2 (the Notary Public) admitted in cross-examination that **no cash changeover of Rs. 50,00,000/ took place in his**

		presence. **Para 48, 50**
4. Non-Production of Original Document	1.Deemed secondary. 2.Held that because a basic underlying liability existed, secondary documentation details did not require further rigorous verification. **Para 26**	1.Raised serious doubt over the complainant's case. 2.The complainant failed to produce or mark the original sale agreement in court. **3.It is difficult to believe that a buyer paying a massive sum of Rs. 50,00,000/- as part consideration would permit the seller (accused) to retain the original document while the transaction remained uncompleted. Para 49**
5. Suspicion in Consideration Terms	1.Considered the debt absolute because the signature on the negotiable instrument was valid. 2.The commercial logic behind the contractual terms was not rigorously scrutinized. **Para 27**	1.Highlighted the commercial improbability of the contract terms: **the agreement allowed a long period of one year to execute the sale for small amount remaining balance of Rs. 5,00,000/-, despite a massive amount of Rs. 50,00,000/- allegedly being paid advance payment.** 2.This structural layout creates heavy doubt on the actual transaction. **Para 59**
6. Financial Capacity & Income	1.Held that once a liability is admitted, there is **no**	1.Reversed the burden. 2.Since the accused

Tax Status	**legal requirement for the complainant to produce separate, independent proof regarding the source of funds or the explicit means of cash advancement. Para 25, 26**	fundamentally disputed the transaction, and the complainant is a businessman (not an agriculturist), he was strictly required to file Income Tax returns and Bank Statements proving he possessed Rs. 50,00,000/- in cash liquidity on 13.01.2014. 3. **Failure to produce these financial accounts** is fatal to the case. **Para 68, 69**

18. The case of the Appellant/Complainant is that the Appellant/Complainant had advanced a sum of Rs.50 lakhs as earnest money for the purchase of the Respondent's/Accused's house property for a total sale consideration of Rs.55 lakhs and that the balance was to be paid by the Appellant/Complainant within one year. On payment of the balance amount of Rs.5 lakhs, the Respondent/Accused was to execute a Sale Deed in favour of the Appellant/Complainant.

19. The learned counsel for the Appellant/Complainant would submit that well-considered decision based on the evidence by the Trial Court has been reversed by the Appellate Court. Hence, the learned counsel submits

that the impugned judgment of the Appellate Court, reversing the judgment of the Trial Court, is liable to be set aside and the decision convicting the Respondent/Accused should be restored.

20. In support of the present appeal, the learned counsel for the Appellant/Complainant has placed reliance on the following decisions of the Hon'ble Supreme Court:-

(i) Sanjabij Tari vs. Kishore S.Borcar and Another [2025 SCC OnLine SC 2069]

(ii) R. Hemalatha vs. Kashthuri [(2023) 10 SCC 725

21. On the other hand, the case of the Respondent/Accused is that the respondent owed no money to the Appellant/Complainant, and that there was a collateral transaction between the Respondent's/Accused's husband, namely Moothy (DW3) and the Appellant's/Complainant's father, namely Lalit Kumar Jain, in connection with the educational institution, namely Don Bosco School (Teachers Training Institute) Erode of the Respondent/Accused.

22. The further case of the Respondent/Accused is that Ex.D4-Deposition of Periyasamy dated 10.11.2014, which was marked through DW2, who registered Ex.D1-FIR dated 13.04.2016 pursuant to a direction of this Court in Crl.O.P.No.28721 of 2015 clearly states that the land of the school property had earlier been sold and mortgaged to Raja and Palanisamy, and that the Appellant's/Accused's father, namely Lalit Kumar Jain, showed interest in taking over the loan by discharging the dues to Raja and Palanisamy.

23. It is the further case of the Respondent/Accused that the Appellant's/Complainant's father, Mr.Lalit Kumar Jain, paid a sum of Rs.40 lakhs to Raja and Palanisamy. In connection therewith, documents were executed in favour of the Appellant's/Complainant's father, which were marked as Exs.D7 to D9. It is further submitted that subsequent to the proceedings under the PMLA, the attachment of the property in Ex.P8-Sale Agreement dated 13.01.2014 was executed by coercing the Respondent/Accused to sign the same, as if she had received a sum of Rs.50 lakhs in cash as an advance from the Appellant/Complainant.

24. The learned Senior Counsel for the Respondent/Accused, on the other hand, would submit that there was no money transaction between the Appellant/Complainant and the Respondent/Accused and that the transaction was actually between the Respondent's/Accused's father, Mr.Lalit Kumar Jain, and the Respondent's/Accused's husband, Moothy (DW3), who had given Ex.D2-Police Complaint dated 30.10.2014 (actually 31.10.2014).

25. The case of the respondent is that the Respondent's/Accused's husband, namely Moorthy, was running an educational institution, namely Don Bosco School. He had earlier borrowed Rs.32,00,000/- from one Periyasamy and his son Raja for construction of a building for the aforesaid educational institution. While the loan was being discharged from time to time, the said Periyasamy requested the Respondent's/Accused's husband to repay the loan amount, as he was in urgent need of the money lent to the Respondent's/Accused's husband.

26. It is in this background, the Respondent/Accused had marked Ex.D7-Sale Deed, dated 11.12.2012, Ex.P8-Sale Agreement dated 13.01.2014 and Ex.D9-Power of Attorney, dated 11.12.2012, which were

executed in favour of the Appellant's/Complainant's father for the purpose of taking over the loan.

27. It is submitted by the learned Senior Counsel for the Respondent/Accused that the properties in Ex.D7-Sale Deed, dated 11.12.2012, Ex.P8-Sale Agreement dated 13.01.2014 and Ex.D9-Power of Attorney, dated 11.12.2012 were originally sold to the father of Raja and were transferred to the Appellant's/Complainant's father in view of the above request to secure the loan repayment directly to Raja and Palanisamy and that interest of the loan was subsequently paid to the Appellant's/Complainant's father. It is further submitted that the properties mentioned in Ex.D7, Ex.D8 and Ex.D9 were thereafter attached by the Enforcement Directorate at Delhi in connection with a PMLA case and that under these circumstances, the Appellant's/Complainant's father was unwilling to receive any amounts either towards principle and/or interest in installments for discharge of the debt of the Respondent's/Accused's husband.

28. It is further submitted by the learned Senior Counsel that on 13.01.2014, the Respondent's/Accused's husband was asked to come to the Appellant's/Complainant's house to resolve the matter. Thereafter, the

Appellant/Complainant and his father asked the Respondent’s/Accused's husband to transfer the house property and since the Respondent’s/Accused's husband informed that the house was in the name of the Respondent/Accused, Ex.P8-Sale Agreement dated 13.01.2014 was obtained together with Ex.P1 (Cheque No.969445 dated 15.10.2015 for a sum of Rs.40,00,000/-) and Ex.P2 (Cheque No.969446 dated 13.10.2015 for a sum of Rs.10,00,000/-). It is further submitted that the Respondent/Accused, who was staying in Bangalore at that time, was immediately asked to come to Erode. On the same day, Ex.P8-Sale Agreement dated 13.01.2014 was executed for the sale of the Respondent's/Accused's house for a total value of Rs.55 lakhs, out of which, it was recorded as if a sum of Rs.50 lakhs had been paid by the Appellant/Complainant to the Respondent/Accused.

29. It is further submitted by the learned Senior Counsel that even though there was no agreement for such sale in reality and no amount was received by the Respondent/Accused, Ex.P1 (Cheque No.969445 dated 15.10.2015 for a sum of Rs.40,00,000/-) and Ex.P2 (Cheque No.969446 dated 13.10.2015 for a sum of Rs.10,00,000/-) were obtained along with other documents and Ex.P8-Sale Agreement dated 13.01.2014 was signed in the presence of Mr.C.Eswaramoorthy (PW2), which was witnessed by Logasamy

(DW1) and Moorthy (DW3), the husband of the Respondent/Accused.

30. It is further submitted by the learned Senior Counsel that there is no dispute regarding the pre-existing loan taken by the Respondent's/Accused's husband from the Appellant's/Complainant's father, after the Appellant's/Complainant's father decided to take over the loan that was earlier given by Palanisamy and Raja, and that in view of the complications arising from the attachment of the properties in Ex.D7-Sale Deed, dated 11.12.2012, Ex.P8-Sale Agreement dated 13.01.2014 and Ex.D9-Power of Attorney, dated 11.12.2012, coercion was exercised by confining the Respondent's/Accused's husband.

31. In this background, Ex.P8-Sale Agreement dated 13.01.2014 was signed. Later, it was made to appear that a dispute and complications had arisen regarding the house property, which was the subject of Ex.P8-Sale Agreement dated 13.01.2014 between the Appellant/Complainant and the Respondent/Accused.

32. On behalf of the Respondent/Accused, the learned Senior Counsel

has relied on the following decisions:

(i) Tedhi Singh v. Narayan Dass Mahant [(2022) 6 SCC 735]

(ii) M.S. Narayana Menon @ Mani v. State of Kerala and Another [2006 (3) CTC 730 (SC)]

(iii) K. Prakashan v. P.K. Surenderan [(2008) 1 SCC 258]

(iv) Hiten P. Dalai v. Bratindranath Banerjee [2001 (3) CTC 243 (SC)]

(v) T.R. Palanisamy v. Hariharan [2012 (2) MWN (Cr.) DCC 141 (Mad.)]

(vi) Sanjay Mishra v. Kanishka Kapoor and Ors [MANU/MH/1078/2009]

(vii) V. Ponkasamuthu v. M. Aathimuthu [2009 (1) MWN (Cr.) DCC 65 (Mad)]

(viii) Kalavally v. Parthasarathy [2008 (5) CTC 527 (Mad)]

33. In ***Bir Singh Vs. Mukesh Kumar***, (2019) 4 SCC 197, the Hon'ble Supreme Court held as under:-

> *"33. A meaningful reading of the provisions of the Negotiable Instruments Act including, in particular, Sections 20, 87 and 139, 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 in discharge 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 provisions of Section 138 would be attracted****.*

34. 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.

35. .....

36. 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."

34. The point for consideration in this appeal is whether the decision of the Appellate Court is to be reversed by restoring the decision of the Trial Court in the given facts and circumstances of the case.

35. Keeping the above principles of the Hon'ble Supreme Court in **Bir**

Singh's case referred to *supra* in mind, I proceed to give my reasoning and conclusion as to whether the impugned judgment of the First Appellate Court dated 25.04.2018 warrants interference.

36. Under Section 139 of the Negotiable Instruments Act, 1881, there is a presumption drawn in favour of the holder of a cheque that the holder received the cheque from the drawee for the discharge of debt or other liability , whether in whole or in part, of any debt.

37. In other words, there is a presumption drawn against the drawer of the cheque that the cheque was issued by the drawer in favour of the drawee/ holder of a cheque for the discharge of a debt or other liability whether in whole or in part.

38. For the Respondent/Accused as the drawer of the cheque to shift the burden cast under Section 139 of the Negotiable Instruments Act, 1881, it was sufficient for the Respondent/Accused to make out a case that there was no preponderance of probability for issuance of Ex.P1 (Cheque No.969445 dated 15.10.2015 for a sum of Rs.40,00,000/-) and Ex.P2 (Cheque No.969446 dated 13.10.2015 for a sum of Rs.10,00,000/-) for the discharge

of a debt or other liability whether in whole or in part.

39. The admitted position is that DW3, i.e., the Respondent's/Accused's husband, owed money to the Appellant's/Complainant's father namely Mr. Lalith Jain. Ex.P8-Sale Agreement dated 13.01.2014 was signed by the Respondent's/Accused. It was witnessed by the Witness who were examined on behalf of the Respondent's/Accused.

40. The facts on record also reveal that Ex.D2-Police Complaint was given on 31.10.2014 by DW3, the husband of the Respondent/Accused regarding the event surrounding execution of Ex.P8-Sale Agreement dated 13.01.2014. Ex.D2-Police Complaint dated 31.10.2014 was approximately 10 months after the execution of Ex.P8-Sale Agreement dated 13.01.2014. The Land Grabbing Cell had however refused to register it for reasons best known.

41. This impelled DW3, the husband of the Respondent/Accused to file Crl.O.P.No.28721 of 2015. Pursuant to the order passed in Crl.O.P.No.28721 of 2015, Ex.D2-Police Complaint dated 30.10.2014 (actually 31.10.2014) was taken on file and thereafter Ex.D1-FIR in Crime No.07 of 2016 dated

13.04.2016 was registered. It is not clear as to what is the status of the case after Ex.D1-FIR in Crime No.07 of 2016 dated 13.04.2016 was registered.

42. The consistent stand of the witnesses examined on behalf of the Respondent/Accused was that no amount was paid by the Appellant/Complainant to the Respondent/Accused and that Ex.P8-Sale Agreement dated 13.01.2014 was obtained by exercising coercion on Respondent/Accused, as if there was a proposal for sale of her house property to the Appellant/Complainant.

43. It was also stated that neither there was any negotiation for sale of the property of the Respondent/Accused for a sum of Rs.55 lakhs nor a sum of Rs.50 lakhs was paid by Appellant/Complainant the to the Respondent/Accused as an advance.

44. Thus, the Trial Court could have examined the circumstances under which Ex.P8-Sale Agreement dated 13.01.2014 was executed, in light of the overwhelming evidence that was produced before the Trial Court.

45. Though, the Respondent/Accused as the drawer of Ex.P1 (Cheque

No.969445 dated 15.10.2015 for a sum of Rs.40,00,000/-) and Ex.P2 (Cheque No.969446 dated 13.10.2015 for a sum of Rs.10,00,000/-) has neither denied her signature on them nor execution of Ex.P8-Sale Agreement dated 13.01.2014, yet it cannot be held to be fatal to the defence of the Respondent/Accused before the Trial Court.

46. Though, there has also been a delay in approaching the Land Grabbing Cell regarding the events surrounding the execution of Ex.P8-Sale Agreement dated 13.01.2014, by DW3, by the husband of the Respondent/Accused, it is sufficient to conclude that the Respondent/Accused has shifted the burden on the Appellant/ Complainant as there is overwhelming evidence to infer that Ex-P8 Sale Agreement dated 13.01.2014 and Ex.P1 (Cheque No.969445 dated 15.10.2015 for a sum of Rs.40,00,000/-) and Ex.P2 (Cheque No.969446 dated 13.10.2015 for a sum of Rs.10,00,000/-) were obtained under coercion.

47. Therefore, it was incumbent for the Appellant/Complainant prove that Ex.P1 (Cheque No.969445 dated 15.10.2015 for a sum of Rs.40,00,000/-) and Ex.P2 (Cheque No.969446 dated 13.10.2015 for a sum of Rs.10,00,000/-) were indeed issued by the Respondent/Accused for the

discharge of a debt, arising out of execution of Ex.P8 – Sale Agreement dated 13.01.2014. Since, the Respondent/Accused is merely required to make out a probable defence to shift the burden on the Appellant/Complainant.

48. In my view, the Respondent/Accused had discharged the burden by shifting onus under Section 139 of the Negotiable Instruments Act, 1881 onto the Appellant/Complainant to prove that indeed, a sum of Rs.50 lakhs was advanced towards sale consideration in cash for the sale of the property which led to the in execution of Ex.P8-Sale Agreement dated 13.01.2014 and the balance of Rs.5 lakhs was to be paid by the Respondent/Accused within one year for which Ex.P1 (Cheque No.969445 dated 15.10.2015 for a sum of Rs.40,00,000/-) and Ex.P2 (Cheque No.969446 dated 13.10.2015 for a sum of Rs.10,00,000/-) were given.

49. That apart, in the complaint also, there was no record of the post-dated cheques in Ex.P1 (Cheque No.969445 dated 15.10.2015 for a sum of Rs.40,00,000/-) and Ex.P2 (Cheque No.969446 dated 13.10.2015 for a sum of Rs.10,00,000/-) were given on 10.01.2015 to refund the amount allegedly advanced pursuant to Ex.P8-Sale Agreement dated 13.01.2014.

50. In my view, the decision of the Appellate Court, reversing the judgment of the Trial Court does not merit any interference.

51. Therefore, this Criminal Appeal is liable to be dismissed, and accordingly, dismissed with liberty to the Appellant/Claimant to work out civil remedy, in accordance with law, if so advised. No costs.

13.07.2026

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Neutral Citation : Yes / No

To

1. The I Additional District and Sessions Court, Erode.

2. The Judicial Magistrate (Fast Track Court No.2), Erode.

C.SARAVANAN, J.

raja

CRL.A.No.702 of 2018

13.07.2026