IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 10-08-2026**

CORAM

**THE HON'BLE MR JUSTICE N.SATHISH KUMAR**

**and**

**THE HON'BLE MR.JUSTICE M.JOTHIRAMAN**

**A.S.No.703 of 2026**
**and**
**C.M.P.No.18830 of 2026**

N.Sundram @ Ramalingam

..Appellant

Vs

P.Rajasekaran

..Respondent

**PRAYER :** Appeal filed under Section 96 r/w.Order XLI Rule 1 of CPC, against the judgment and decree dated 28.02.2025 passed in O.S.No.2737 of 2021 on the file of VI Additional City Civil Court, Chennai.

For Appellant : Mr.C.Shankar

For Respondent : Mr.S.L.Sudarsanam

**JUDGMENT**

**(Judgment of the Court was delivered by M.JOTHIRAMAN, J.)**

The unsuccessful defendant has preferred the appeal, challenging the judgment and decree passed in O.S.No.2737 of 2021 dated 28.02.2025.

2. Suit is filed for recovery of a sum of Rs.29,92,000/- together with interest at the rate of 12% per annum on the principal sum of Rs.22,00,000/- from the date of suit, i.e., 17.04.2017 till the date of decree and thereafter, at the rate of 6% per annum till the date of realization. Suit was decreed by the trial Court, aggrieved by the same, unsuccessful defendant has preferred the present appeal.

3. For the sake of convenience, the parties shall be referred to as per their ranking before the trial Court.

Brief case of the plaintiff is as follows:-

4. The defendant, being a family friend and have been in financial crisis, approached the plaintiff for financial assistance. Accordingly, the plaintiff advanced a sum of Rs.22,00,000/- to the defendant as a hand loan for developing his business and meeting his family expenses. It is the further case of the plaintiff that despite repeated requests for repayment, the defendant failed to discharge the liability. In discharge of the said debt, the defendant have issued two cheques bearing Nos.126317 & 126318 dated 14.05.2014 and 15.05.2014 respectively, each for a sum of Rs.11,00,000/-. When the said cheques were presented for collection through the banker on 15.05.2014, they were returned unpaid. Thereafter, the plaintiff issued a legal notice dated

26.05.2014 calling upon the defendant to make payment of the cheque amounts. Though the notice was received by the defendant, he neither paid the amount nor sent any reply. The plaintiff also initiated two criminal cases against the defendant under Section 138 of Negotiable Instruments Act, 1881. Since the amount remained unpaid, the present suit came to be filed.

5. The defendant, in his written statement, categorically denied the alleged borrowing of Rs.22,00,000/- from the plaintiff. His specific defence was that he had borrowed only Rs.11,00,000/- in the year 2007 and the said amount had already been repaid fully. According to him, the cheques relied upon by the plaintiff were not issued towards any legally enforceable debt in the present transaction, but were blank signed cheques allegedly given as security in respect of the earlier transaction. According to the defendant, the plaintiff had misused the said cheques by filing up the particulars subsequently. The defendant further pleaded that he had discharged the alleged earlier loan in instalments, including payments of Rs.2,00,000/- in cash and further sum of Rs.5,00,000/- and Rs.4,00,000/- on two occasions in the presence of Santhiveeran, Mani @ Rajakrishnan and Rangasamy.

6. However, no documentary evidence such as receipts, bank transactions were produced. The alleged witnesses to the repayment were also not examined

except one witness whose testimony was ultimately not tested in cross-examination. Merely, admitting the signature of the cheque and having possession of the cheque is not sufficient for consideration passed against the cheque.

7. On the basis of the pleadings, the trial Court framed the following issues:

*1. Whether the plaintiff is entitled for recovery of money a sum of Rs.29,92,000/- together with interest at the rate of 12% per annum on the principal sum of Rs.22,00,000/- from the defendant?*

*2. It is correct and true to say that the defendant has borrowed only Rs.11,00,000/- from the plaintiff during the year 2007 and issued the cheques?*

*3. Whether the defendant has paid Rs.11,00,000/- to the plaintiff?*

*4. What else reliefs the parties are entitled to?*

8. On the side of the plaintiff, the plaintiff examined himself as P.W.1 and Exs.A1 to A7 were marked. On the side of the defendant, the defendant examined himself as D.W.1 and no exhibit was marked. One Rangasamy was examined as D.W.2 by way of proof affidavit. However, as he failed to appear for cross-examination on several hearings, his evidence was eschewed by the trial Court.

Findings of the trial Court:

9. The defendant did not deny the issuance of the cheques, particularly regarding his signature found in the cheques. The defendant had admitted the borrowing of Rs.11,00,000/- though he disputed the plaintiff’s case regarding the borrowing of Rs.22,00,000/-. The trial Court further found that the defendant had not produced acceptable evidence to establish that the cheques were issued only as security in the year 2007 or that the alleged loan amount had been completely repaid. The trial Court also taken note of the fact that despite claiming repayment of substantial amounts in the presence of third parties, the defendant had not examined those persons to establish the alleged repayments.

10. The learned counsel appearing for the appellant / defendant contended that there was no specific pleading regarding the exact date of advancement of the alleged loan of Rs.22,00,000/- and therefore, the transaction itself was doubtful. It was further contended that the plaintiff has not produced income tax returns for the year 2014-15 or financial records to establish his capacity to advance such a substantial amount. It is further contended that the defendant had specifically pleaded that he had borrowed only Rs.11,00,000/- in the year 2007 and that the said amount had already been discharged. The cheques were

issued only as security for the earlier transaction and were subsequently misused by the plaintiff. The trial Court failed to note that the defendant had categorically proved his case by preponderance of probability through the cross-examination of P.W.1. Having elicited the material lacuna in the plaintiff's pleading and evidence, the trial Court decreed the suit, which is unsustainable in law and prayed to allow the appeal.

11. Per contra, learned counsel appearing for the respondent / plaintiff would submit that the defendant has categorically admitted his signature in the cheques. There is no specific denial of the issuance of the cheques. The defence is only that the cheques were allegedly issued as security in respect of an earlier transaction. It is further submitted that the defendant has not produced any acceptable material to establish either the alleged earlier transaction or the alleged repayment. Though the defendant claims that the amounts were paid in the presence of third parties, those persons were not examined and no documentary evidence has also been produced. Despite receiving the legal notice by the defendant, he did not send any reply setting out the defence now projected before the Court below. Once the execution and issuance of cheques are admitted, the legal presumptions under the Negotiable Instruments Act operates in favour of the plaintiff. The burden shifts on the defendant to rebut the legal presumptions by placing acceptable evidence. The defendant has failed

to rebut the same. There is no infirmity in the judgement and decree of the trial Court and prayed to dismiss the appeal.

12. We have considered the rival submissions and perused the available records carefully.

13. In the light of the above submissions, the point for determination arises in this appeal:

*(i) Whether the defendant has succeeded in establishing his defence that the cheques were issued only as security for an earlier loan transaction of Rs.11,00,000/- and that the said liability had already been discharged?*

*(ii) Whether the plaintiff is entitled money decree as prayed for?*

<u>Point Nos. (i) & (ii)</u>:-

14. It is an admitted fact that the cheques in Exs.A1 & A2 issued by the defendant and also admitted the signature of him in the cheques. The execution and issuance of the cheques are not disputed. The only defence taken by the defendant is Exs.A1 & A2 blank cheques were issued as security purpose, while receiving a sum of Rs.11,00,000/- in the year 2007 transactions. Once execution of the cheques is admitted, the statutory presumption under the Negotiable Instruments Act operates in favour of the holder of the cheques. The burden

shifts upon the defendant to rebut the said presumption by adducing reliable evidence.

15. In the present case, the defendant has taken a specific stand that the cheques were issued in the year 2007 as security for a loan of Rs.11,00,000/-. If that contention is accepted, the defendant ought to have produce some material to establish the circumstances in which such cheques were issued, particularly when the cheques admittedly bear dates of the year 2014. The defendant has not produced any document to establish that the cheques were handed over in the year 2007 and no receipt or acknowledgment relating to the alleged loan transaction has been produced. There is also no material to establish that the defendant has demanded the return of the cheques after allegedly discharging the earlier loan.

16. The defendant has pleaded that he had made payment of Rs.2,00,000/-, Rs.5,00,000/- and Rs.4,00,000/- on different occasions. Though the defendant claims to have paid amounts in cash and in instalments in the presence of Santhiveeran, Mani @ Rajakrishnan and Rangasamy, none of those persons have been examined. No documentary evidence has been produced to support the alleged repayments. In fact, one of the persons relied upon by the defendant who was examined as D.W.2, however, he did not subject himself to

cross-examination and his evidence was eschewed by the Court below. Therefore, there is no legally acceptable evidence before this Court to establish the alleged repayment. It is significant that the defendant, upon receipt of the legal notice, did not choose to send any reply.

17. The contention of the appellant that the respondent / plaintiff has not established his financial capacity to advance the loan amount. The plaintiff has not produced income tax returns, that cannot by itself discredit the transaction, particularly when the execution of the cheques is admitted and the statutory presumption remains unrebutted.

18. The dispute is essentially with regard to the quantum of the loan and the purpose for which the cheques were issued. In such circumstances, the defendant was required to substantiate his specific defence by acceptable evidence. The defendant has also not produced any material to establish that the plaintiff had filled up the other particulars in the cheques after they were allegedly handed over as blank cheques. The defendant's case is that the transaction was only for Rs.11,00,000/- and that the same had already been settled. Once such a specific plea of repayment is taken, the burden lies upon the defendant to establish the same by acceptable evidence. The defendant has failed to discharge that burden. The plaintiff also initiated criminal proceedings

under Section 138 of the Negotiable Instruments Act and the concerned Court has passed a judgment of conviction and sentence against the defendant.

19. The trial Court on proper appreciation of evidence, rightly concluded that the initial burden of proof lies on the defendant, i.e., execution of Exs.A1 & A3 cheques with consideration and also issued legal notice demanding repayment of loan amount. There is no rebuttal evidence on the side of the defendant to disprove the case of the plaintiff. This Court finds no perversity or illegality in the findings rendered by the trial Court. There is no merit in this appeal. Point Nos.(i) and (ii) are answered accordingly.

20. In the result, the Appeal suit is dismissed, confirming the judgment and decree dated 28.02.2025 passed in O.S.No.2737 of 2021 by the VI Additional City Civil Court, Chennai. Connected miscellaneous petition is closed. No costs.

**(N.S.K., J.)** **(M.J.R., J.)**
**10-08-2026**

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

vji

To

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