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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.09.2026

PRONOUNCED ON : 06.10.2026

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.No.10439 of 2026 & Crl.RC.No.1083 of 2026 and
Crl.MP.Nos..8615 & 8799 of 2026

Crl.OP.No.10439 of 2026

G.D.Ranka

...Petitioner

Vs

Manish Hathiramani

…Respondent

Prayer : Criminal Original Petition filed under Section 528 of BNSS, praying to set aside the docket order dated 08.04.2026 passed by the learned III Fast Track Court, Metropolitan Magistrate, Saidapet, Chennai in the petition filed under Section 148(3) of NI Act and further direct the learned III Fast Track Court, Metropolitan Magistrate, Saidapet, Chennai to release a sum of Rs.80,58,600/- (Rupees Eighty Lakhs Fifty Eight Thousand and Six Hundred only) lying to the credit of CC.No.1543 of 2013 to the petitioner herein

For Petitioner : Mr.G.Krishna Kumar

For Respondent : Mr.V.Karthikeyan
for Mr.G.Mohana Krishnan

Crl.RC.No.1083 of 2026

Manish Hathiramani

...Petitioner

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Case Citation: (2026) ibclaw.in 6008 HC

Order QR

Vs

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G.D.Ranka …Respondent

Prayer : Criminal Revision Case filed under Section 438 r/w 442 of BNSS, praying to call for the records and set aside the judgement dated 24.02.2026 passed in Crl.A.No.367 of 2023 on the file of the learned III Additional District and Session Judge, Chennai confirmed the order against the judgment dated 26.05.2023 passed in C.C.No.1543 of 2013 on the file of the learned III Fast Track Court, Metropolitan Magistrate, Saidapet, Chennai

For Petitioner : Mr.V.Karthikeyan
for Mr.G.Mohana Krishnan
For Respondent : Mr.G.Krishna Kumar

COMMON ORDER

The present Criminal Revision Case has been filed challenging the judgment dated 24.02.2026 passed in Crl.A.No.367 of 2023 by the III Additional District and Sessions Judge, Chennai, whereby the Appellate Court confirmed the judgment of conviction and sentence imposed by the Trial Court in C.C.No.1543 of 2013, dated 26.05.2023, on the file of the learned III Fast Track Court, Metropolitan Magistrate, Saidapet, Chennai, convicting the accused for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, (hereinafter referred to as “NI Act”).

2. The petitioner and another were arrayed as accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the NI

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Act, alleging that the accused approached him seeking a short-term loan of Rs.3.33 crores, carrying interest at the rate of 18% per annum. Accordingly, on 04.11.2011, the first accused came to Chennai and received the said amount from the complainant. The accused also agreed to repay the said amount together with the agreed interest. Thereafter, towards repayment of the said liability, the accused issued a cheque dated 04.01.2013 for a sum of Rs.4,02,93,000/-, drawn on City Bank, N.A., Kolkata Branch. The said cheque, when presented for collection, was returned dishonoured with the endorsement "Payment Stopped by Drawer". Consequently, after issuing the statutory notice, the complainant instituted the complaint before the Trial Court, and the same was taken cognizance. It is further submitted that the proceedings against the second accused was subsequently quashed by this Court vide order dated 26.08.2013 in Crl.O.P.No.17238 of 2013.

3. On the side of the complainant, P.W.1 was examined and Exs.P1 to P11 were marked. On the side of the accused, D.W.1 and D.W.2 were examined and Exs.D1 to D7 were marked. Upon appreciation of the oral and documentary evidence available on record, the Trial Court found the first accused guilty of the offence punishable under Section 138 of the NI Act and sentenced him to undergo six months of simple imprisonment and further directed him to pay the cheque amount as compensation. Aggrieved by the said judgment of conviction and sentence, the first accused preferred an appeal. However, the Appellate Court, also

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dismissed the appeal and confirmed the conviction and sentence imposed by the Trial Court. Challenging the concurrent findings of the Courts below, the first accused has preferred the present Criminal Revision Case.

4. Heard the learned counsel appearing on either side and perused all the materials placed before this Court.

5. On perusal of the records and upon considering the submissions made by the learned counsel appearing on either side, it is seen that the petitioner is arrayed as the first accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the NI Act, alleging that the first accused had borrowed a short-term loan of Rs.3.33 crores on 04.11.2011 and had agreed to pay interest at the rate of 18% per annum. In order to repay the said loan amount together with interest, the first accused is alleged to have issued a cheque bearing No.406008, dated 04.01.2013, for a sum of Rs.4,02,93,000/-, drawn on City Bank, N.A., Kolkata Branch. However, even prior to the presentation of the said cheque, the first accused had lodged a complaint before the Station House Officer, Park Street Police Station, Kolkata, stating that cheque leaf bearing No.406008 had gone missing from his cheque book sometime during January or February 2011. He had, therefore, instructed his banker, namely City Bank, Kolkata, to stop payment in respect of the said cheque. The first accused further stated that he

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subsequently came to know that the said cheque was in the custody of the respondent and another person and apprehended that they might misuse the same. The said complaint was duly received by the concerned police station and an acknowledgment was issued.

6. Thereafter, the first accused again lodged a complaint dated 25.12.2012 before the Station House Officer, Shakespeare Sarani Police Station, Kolkata, with copies marked to the Commissioner of Police and the Joint Commissioner of Police, Kolkata. In the said complaint, the first accused stated that he was carrying on business in the name and style of M/s. Deen Dayal Investments, providing advisory and consultancy services and undertaking trading in the Indian equity market, including investment advice relating to stocks, shares and derivatives. According to the said complaint, during the latter part of 2009, the daughter-in-law of the respondent had become acquainted with the first accused and informed him that her husband and father-in-law were desirous of availing his services for making investments in the financial markets. After certain meetings, the first accused agreed to provide his financial expertise and commenced rendering investment advisory services from May 2010. The first accused further stated that, during July-August 2012, he was informed by the respondent and his father that they no longer desired to avail themselves of his services, as he had changed the nature of his business.

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7. According to the first accused, the fees payable for the services rendered by him were also thereafter withheld. Subsequently, the respondent demanded payment of a sum of Rs.4.70 crores from the first accused. When the first accused questioned the basis of such demand, he was allegedly informed that, about two years earlier, a sum of Rs.2 crores had been sent to him in cash through hawala transactions and that the said amount had subsequently increased to Rs.4.70 crores. The first accused denied having received any such amount from the respondent and contended that the said allegation was raised only with a view to avoid payment of approximately Rs.1.60 crores towards the service charges payable for the services rendered by him. According to the first accused, the respondent and his father had thereby raised a false claim against him. It is further stated that, during December 2012, the respondent and his father visited the office of the first accused and reiterated their alleged claim for Rs.4.70 crores. During the said visit, they allegedly abused the first accused in filthy language and threatened him with dire consequences.

8. On receipt of the said complaint, as no action was taken by the police, the accused was constrained to file a petition under Section 156(3) of the Cr.P.C. before the learned Chief Metropolitan Magistrate, Kolkata, seeking appropriate directions. Pursuant to the said direction, an FIR came to be registered in Crime No.80 of 2013 for the offences punishable under Sections 403, 415, 467, 468, 471,

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504 and 506(ii) of the IPC. However, after completion of investigation, the said case was closed as "mistake of fact". Aggrieved by the same, the accused filed a protest petition, which was also dismissed. Thus, it is evident from the records that, even prior to the presentation of the alleged cheque, the accused had lodged complaints alleging misuse of the cheque. The said complaints were marked as Exs.D2 and D3. The petition filed under Section 156(3) of the Cr.P.C. was marked as Ex.D4. Pursuant to the order passed therein, the FIR in Crime No.80 of 2013 was registered and the same was marked as Ex.D5. Thereafter, upon closure of the FIR, the accused filed a protest petition, which was marked as Ex.D6, and the order passed thereon was marked as Ex.D7.

9. It is further seen that, even prior to the presentation of the cheque, the accused had instructed his banker to stop payment in respect of the said cheque. Consequently, when the cheque was presented for collection, the same was returned unpaid with the endorsement "Payment Stopped by Drawer". Though the accused had not produced the original stop-payment letter issued to his banker, the absence of such document, by itself, cannot be held to completely discredit the defence raised by him. In fact, a perusal of Ex.D2 discloses that the accused had already informed the concerned bank and instructed it to stop payment in respect of the cheque in question even prior to its presentation. It is also relevant to note that, during the course of trial, the accused had categorically disputed the signature

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appearing on the cheque and specifically contended that the same was forged by the complainant. In order to substantiate the said defence, the accused invoked Section 45 of the Indian Evidence Act, 1872, and filed C.M.P.No.504 of 2018 seeking to send the cheque for examination by a handwriting expert. However, the said petition came to be dismissed, and the same was confirmed by this Court vide order dated 03.10.2018 in Crl.O.P.No.23416 of 2018. The aforesaid circumstances, particularly the lodging of the complaints prior to the presentation of the cheque, the issuance of the stop-payment instruction, and the consistent defence disputing the signature appearing on the cheque, are relevant circumstances while considering whether the accused has successfully rebutted the statutory presumption arising under the Negotiable Instruments Act.

10. On perusal of the order passed by this Court in Crl.O.P.No.23416 of 2018, it is seen that the petition filed by the accused seeking to send the cheque for handwriting expert opinion was dismissed primarily on the ground that the accused had failed to produce the stop-payment letter allegedly issued to his banker and had also failed to disclose the date on which such stop-payment instruction was issued. This Court had further observed that the mere registration of the FIR in Crime No.80 of 2013 would not establish that the signature of the accused appearing on the cheque had been forged by the complainant. It was also noticed that the accused had not issued any reply to the statutory notice issued by

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the complainant. However, this Court, while considering the said petition, appears to have overlooked the significant circumstance that the cheque in question was admittedly returned unpaid with the specific endorsement "Payment Stopped by Drawer". It is difficult to accept that the banker could have stopped payment of the cheque on its presentation for collection in the absence of any prior instruction from the drawer. Therefore, the fact that the cheque was dishonoured specifically for the reason of "Payment Stopped by Drawer" assumes significance while considering the defence raised by the accused.

11. Likewise, the failure on the part of the accused to issue a reply to the statutory notice, cannot preclude him from raising a defence during the course of trial or from seeking to establish that the signature appearing on the cheque was not his signature. The accused had specifically disputed the signature on the cheque and alleged that the same had been forged. Therefore, his request to have the cheque examined by a handwriting expert cannot be rejected merely on the ground that he had not issued a reply to the statutory notice. Though the application filed by the accused seeking examination of the cheque by a handwriting expert was ultimately dismissed, in the considered view of this Court, the accused had raised a specific and prima facie defence disputing the very issuance of the cheque and the signature appearing therein. This defence, coupled with the fact that complaints had been lodged even prior to the presentation of the

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cheque and that the cheque was returned for the reason "Payment Stopped by Drawer", constitutes a relevant circumstance for determining whether the accused has rebutted the statutory presumption arising under Section 139 of the NI Act.

12. Further, on perusal of the entire cross-examination of P.W.1, who is the defacto complainant, it is seen that the accused had extensively cross-examined him and elicited several material admissions which go to the root of the complainant's case. In particular, P.W.1 was questioned as to the circumstances under which such a substantial amount of Rs.3.33 crores was allegedly advanced as a short-term loan in cash. The accused also elicited from P.W.1 that he was aware of the complaint lodged by the accused before the Station House Officer, Park Street Police Station, Kolkata, even prior to the presentation of the cheque. It is further significant that, for the alleged advancement of such a substantial amount as a short-term loan, P.W.1 admittedly did not obtain any security from the accused, such as a receipt, promissory note, post-dated cheque or title deed. Such circumstances assume significance when the alleged transaction involves a cash payment of Rs.3.33 crores. Ordinarily, a prudent person advancing such a substantial amount would be expected to maintain some documentary record or obtain appropriate security evidencing the transaction. P.W.1 has also categorically admitted that the accused had rendered consultancy and investment-related services to him and his family and that he had paid service charges to the accused

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for the services so rendered. This admission assumes significance in the light of the defence taken by the accused that the financial transactions between the parties arose out of the consultancy and investment advisory services rendered by him and not out of any loan transaction.

13. It is further seen that, in his proof affidavit, P.W.1 had developed a case that the accused was maintaining an account in the name of M/s. M.R.K.T.C. and a Demat account with M/s. Religare Securities Limited and that the accused had been authorised through a power of attorney to operate the said account. P.W.1 had further stated that the accused represented that he was carrying on a successful investment business, that investments made through him would yield substantial returns in the financial market and that the funds entrusted to him would be safe and handled diligently. According to P.W.1, being attracted by such representations, he entrusted substantial funds to the accused. However, during cross-examination, P.W.1 admitted that he had paid amounts to the accused towards the services rendered by him. Thus, there appears to be a material variation between the manner in which the transaction has been projected in the proof affidavit and the admissions elicited during cross-examination.

14. The accused had also questioned P.W.1 regarding his financial capacity and the source from which he allegedly mobilised and advanced such a

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substantial cash amount of Rs.3.33 crores to the accused. However, no satisfactory explanation appears to have been forthcoming from P.W.1 regarding the source of funds or his financial capacity to advance such a substantial amount. It is also the specific defence of the accused that the alleged loan transaction was not reflected in the income tax returns of P.W.1. These circumstances, particularly the absence of documentary evidence relating to the alleged loan transaction and the failure to satisfactorily establish the source and capacity to advance the amount, are relevant while considering the probability of the complainant's case. On the other hand, the accused entered the witness box and was examined as D.W.1. He categorically denied having received any loan amount from the complainant. According to D.W.1, the complainant and his father had availed themselves of his consultancy and investment advisory services. Thereafter, the complainant and his family members opened various Demat accounts at Chennai and commenced making investments in relatively smaller amounts, including amounts of about Rs.10 lakhs. According to the accused, no amount of Rs.3.33 crores was ever paid to him as a loan and his role was confined to advising the complainant and his family members regarding investments in the equity market, for which he was entitled to receive consultancy/service charges.

15. The further case of the accused is that, over a period of time, the service charges payable to him accumulated to a substantial amount and, in order

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to avoid payment of the said service charges, the complainant misused the cheque in question and presented the same for collection with a view to initiating proceedings under Section 138 of the NI Act. In order to substantiate his defence, the accused also examined D.W.2. Thus, the evidence of P.W.1, particularly the admissions elicited during cross-examination, read with the evidence of D.W.1 and D.W.2, raises a serious question regarding the very existence of the alleged loan transaction of Rs.3.33 crores and provides a probable defence to the accused. The said evidence therefore requires to be considered in determining whether the accused has successfully rebutted the statutory presumption arising under the NI Act.

16. The legal principles governing the statutory presumptions in favour of the holder of a negotiable instrument and the manner in which such presumptions can be rebutted by the accused are embodied in Sections 118 and 139 of the Negotiable Instruments Act, 1881. It is relevant to extract the provisions of Sections 118 and 139 of the NI Act, which read as follows:

> *118. Presumptions as to negotiable instruments. —*
>
> *Until the contrary is proved, the following presumptions shall be made:—*
>
> > *(a) of consideration — that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated*

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or transferred, was accepted, indorsed, negotiated or transferred for consideration;

(b) as to date —that every negotiable instrument bearing a date was made or drawn on such date;

"139. Presumption in favour of holder.—

It shall be presumed, unless the contrary is proved, that the holder of a cheque received the cheque of the nature referred to in section 138 for the discharge, in whole or in part, of any debt or other liability."

17. The presumptions under Sections 118(a) and 139 of the NI Act, are rebuttable in nature. Once the execution of the negotiable instrument is admitted or proved, the statutory presumption arises that the instrument was made or drawn for consideration and, in the case of a cheque, that it was received towards the discharge, in whole or in part, of any debt or other liability. The accused can rebut the said presumption by raising a probable defence and demonstrating, on the basis of the evidence and circumstances available on record, that the existence of consideration or the alleged debt or liability is improbable or doubtful. If the accused succeeds in discharging the initial burden by establishing a probable defence and by showing that the existence of consideration is improbable, doubtful or otherwise not established, the evidentiary burden shifts back to the complainant, who is then required to establish the existence of the legally enforceable debt or

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liability by acceptable evidence. The burden upon the accused to rebut the statutory presumption can be discharged either by adducing direct evidence or by relying upon the circumstances brought on record and establishing the defence on the touchstone of preponderance of probabilities.

18. In the present case, the accused has raised a probable and consistent defence by demonstrating that, even prior to the presentation of the cheque for collection, he had lodged complaints alleging misuse of the cheque, initiated proceedings resulting in registration of an FIR, and instructed his banker to stop payment in respect of the cheque in question. The cheque was thereafter returned unpaid with the specific endorsement “Payment Stopped by Drawer”. These circumstances, coupled with the other materials elicited during the cross-examination of P.W.1 and the evidence adduced by the accused, constitute sufficient circumstances to rebut the statutory presumption and shift the evidentiary burden upon the complainant to establish the alleged loan transaction and the legally enforceable liability.

19. The Hon'ble Supreme Court of India has repeatedly held that the standard of proof required for an accused to discharge the evidentiary burden arising under Section 139 of the NI Act is not as onerous as the standard applicable to the prosecution in establishing the guilt of an accused beyond reasonable doubt.

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The accused is not required to disprove the presumed fact beyond reasonable doubt. The accused can rebut the statutory presumption by satisfying the test of preponderance of probabilities, akin to the standard applicable to a defendant in civil proceedings. For rebutting the presumption, it is open to the accused to raise a probable defence by demonstrating that the existence of a legally enforceable debt or liability is improbable or doubtful. The expression "until the contrary is proved" occurring in Section 139 of the NI Act does not require the accused to necessarily prove the negative, namely, that the cheque was not issued towards the discharge of any legally enforceable debt or liability. The accused can discharge the burden by placing such facts and circumstances on record as would make the non-existence of the alleged debt or liability so probable that a prudent person, in the circumstances of the case, would act upon the supposition that such liability did not exist.

20. Thus, the accused has two modes of rebutting the statutory presumption. The first is by adducing evidence and establishing that the alleged liability did not exist and that the cheque was not issued towards the discharge of any legally enforceable debt or liability. The second, and more importantly, is by relying upon the evidence and circumstances available on record to establish, on the touchstone of preponderance of probabilities, that the existence of such legally enforceable debt or liability is improbable or doubtful. The degree of probability

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required is not mathematical certainty; the defence may succeed even where the probabilities marginally favour the accused, provided that the overall circumstances render the existence of the alleged liability improbable. Once the accused raises a probable defence sufficient to rebut the statutory presumption, the burden shifts back to the complainant to establish, the existence of the legally enforceable debt or liability and that the cheque in question was issued towards the discharge of such liability.

21. In the case on hand, the accused has successfully rebutted the statutory presumption by adopting the modes of rebuttal available to him in law. Through an extensive and effective cross-examination of P.W.1, the accused has brought on record several material circumstances which render the existence of the alleged loan transaction and the corresponding legally enforceable debt or liability highly improbable. The evidence elicited from P.W.1, particularly with regard to the absence of any security document for the alleged loan of Rs.3.33 crores, the absence of satisfactory evidence regarding the source and financial capacity to advance such a substantial amount, the prior complaints lodged by the accused even before the presentation of the cheque, the stop-payment instruction issued to the banker and the existing consultancy relationship between the parties, assumes considerable significance in appreciating the defence. In the present case, the accused has discharged the initial burden by placing sufficient circumstances on

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record to cast a serious doubt upon the existence of the alleged debt and the issuance of the cheque towards discharge of such liability.

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22. Once the statutory presumption stood rebutted, the burden shifted back to the complainant to establish, by acceptable evidence, the existence of the alleged legally enforceable debt or liability and that the cheque in question was issued towards the discharge of such liability. However, the complainant has failed to discharge the said burden by producing cogent and convincing evidence to establish the alleged loan transaction. Therefore, in the facts and circumstances of the present case, the statutory presumptions under Sections 118(a) and 139 of the NI Act cannot be relied upon to sustain the conviction of the accused. The Courts below, having failed to properly appreciate the cumulative effect of the evidence and the circumstances brought on record, have erred in holding the accused guilty of the offence punishable under Section 138 of the NI Act.

23. In view of the above discussion, this Court is of the considered view that the impugned judgments cannot be sustained in lawand are iable to be set aside. Accordingly, the present Criminal Revision Case is allowed and the impugned judgments are set aside. The petitioner is acquitted of the offence punishable under Section 138 of the NI Act, in C.C.No.1543 of 2013 on the file of the III Fast Track Court, Metropolitan Magistrate, Saidapet, Chennai. The

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petitioner is directed to be set at liberty forthwith. Bail bond, if any, executed shall stand cancelled. Fine amount, if any, shall be refunded forthwith.

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24. In view of the order of acquittal passed in Crl.R.C.No.1083 of 2026, the Criminal Original Petition in Crl.O.P.No.10439 of 2026, which has been filed challenging the docket order dated 08.04.2026 passed by the III Fast Track Court, Metropolitan Magistrate, Saidapet, Chennai, returning the petition seeking permission to withdraw the amount deposited by the accused at the time of suspension of sentence, has become infructuous and, therefore, cannot be considered on merits. Accordingly, Crl.O.P.No.10439 of 2026 is dismissed as infructuous. Consequently, the learned Trial Court is directed to permit the accused to withdraw the amount already deposited by him, together with the accrued interest, if any, forthwith, without issuing notice to the complainant.

25. In the result, the Criminal Revision Case is allowed and the Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

06.10.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

1. III Additional District and Session Judge, Chennai

2. III Fast Track Court, Metropolitan Magistrate,
   Saidapet, Chennai

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