

CIVIL COURT CASES

VOL. 101

REPORTS

2019(2)

2019(2) CIVIL COURT CASES 001 (S.C.)

SUPREME COURT OF INDIA

ABHAY MANOHAR SAPRE & DINESH MAHESHWARI, JJ.

Criminal Appeal No.508 of 2019 (Arising out of Special Leave Petition (Crl.) No.1883 of 2018), D/15.03.2019.

Rohitbhai Jivanlal Patel

Vs

State of Gujarat & Anr.

(i) Negotiable Instruments Act, 1881, Ss.138, 139, 118 — Dishonour of cheque - Presumption - Signature on cheque not denied by accused - It is to be presumed that cheque in question was drawn for consideration and the holder of cheque i.e. complainant received the same in discharge of an existing debt - Onus, shifts on accused to establish a probable defence so as to rebut such a presumption. (Para 14)

(ii) Negotiable Instruments Act, 1881, Ss.138, 139, 118 — Dishonour of cheque - Presumption - When presumption is drawn then result of such presumption is to existence of legally enforceable debt and factors relating to want of documentary evidence in the form of receipts or accounts or want of evidence such as regards source of funds are not of relevant consideration while examining whether accused is able to rebut the presumption or not. (Para 19)

(iii) Negotiable Instruments Act, 1881, Ss.138, 139 — Dishonour of cheque - Presumption - Mere creation of doubt is not sufficient to rebut the presumption u/s 139 of the Act. (Para 20)