



WEB COPY

CRL RC No. 832 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-03-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

Crl.R.C.No. 832 of 2022

Dhanraj

..Petitioner

Vs

V.J.Vijayakumar

..Respondent

PRAYER: Criminal Revision Case is filed under Sections 397 and 401 of Code of Criminal Procedure, to allow the Crl.RC and set aside the order passed by the Hon'ble XVI Additional District and Sessions Court, Chennai in CA.No.115 of 2018 dated 15.10.2019 by confirming the conviction and sentence imposed by the learned Metropolitan Magistrate FTC-I Court, Allikulam in CC.No.2601 of 2010 dated 03.03.2018.

For Petitioner:

Mrs.Syba
Legal Aid Counsel

For Respondent:

Mr.C.K.M.Appaji

ORDER

This Criminal Revision Case has been filed as against the Judgment dated 15.10.2019 passed in C.A.No.115 of 2018 on the file of the XVI Additional District and Sessions Judge, Chennai, thereby confirming the order of conviction and sentence imposed by the Judgment dated 03.03.2018 in C.C.No.2601 of 2010 on the file of the Metropolitan Magistrate, Fast Track



Court – I, Allikulam, for the offence punishable under Section 138 of the Negotiable Instruments Act.

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2. The petitioner is the accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act. The case of the respondent is that he is running a business as a wholesale dealer in building materials and the accused, being his customer, used to purchase the building materials from him for several years. Taking advantage of the same, the accused borrowed a sum of Rs.1,50,000/- during the month of July and August 2009. In order to discharge the said loan amount, the accused issued seven cheques and the same were presented for collection. However, all the cheques were returned dishonoured with an endorsement “Funds Insufficient”. After causing a statutory notice, the respondent lodged a complaint and the same has been taken cognizance by the Trial Court.

3. In order to prove the complaint, the respondent examined himself as P.W.1 and marked Exs.P1 to P4. On the side of the accused, D.W.1 to D.W.3 were examined and Ex.D1 was marked.

4. On perusal of the oral and documentary evidence, the Trial Court found the accused guilty of the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to undergo six months simple



imprisonment and awarded compensation to the cheque amount. Aggrieved by the same, the accused preferred an appeal. However, the Appellate Court dismissed the appeal and confirmed the order of conviction and sentence imposed by the Trial Court. Hence, the present Criminal Revision Case has been filed.

5. The learned counsel appearing for the petitioner/accused submitted that the petitioner categorically rebutted the presumption as contemplated under Section 138 of the Negotiable Instruments Act and even then, the Trial Court convicted the accused and the same was confirmed by the Appellate Court. When the accused rebutted the presumption, the entire burden shifted to the shoulder on the respondent to prove that the cheques were issued for a legally enforceable debt. However, the respondent failed to prove the same, except the cheques, no other documents were produced. Further, it is submitted that the respondent has not even specified the exact date on which the alleged loan of Rs.1,50,000/- was advanced to the accused.

6. He further submitted that, on receipt of the statutory notice, the accused caused a reply notice dated 19.02.2010, which was marked as Ex.P4. In the said reply, the accused categorically denied the borrowal of any loan amount from the respondent. On the contrary, it was stated that the accused had business transactions with one Saravanan and Manikandan, who were dealing in



building materials. According to the accused, during the course of such transactions, while purchasing materials on credit basis, he had issued cheques only for security purpose. The cheques, which were issued as security purpose, were misused by the respondent herein, who initiated proceedings under Section 138 of the Negotiable Instruments Act. The learned counsel further submitted that in order to rebut the presumption, the accused examined D.W.1 to D.W.3 and marked Ex.D1. In Ex.D1, D.W.1 admitted the signature of Manikandan. The said Manikandan and Saravanan were running an agency in the name and style of “Ranjana Agency”, in which the accused purchased building materials on credit basis and issued cheques for security purpose. Even after payment of the entire amount due for the goods, which were purchased by the accused, the cheques were not returned to the him. Thereafter, all the cheques were misused by the respondent and initiated the proceedings under Section 138 of the Negotiable Instruments Act.

7. Per contra, the learned counsel appearing for the respondent submitted that in the reply notice, the accused had stated that he was running a business in the name and style of “S.R.Traders” dealing with sand, cement and bricks, both on whole sale and retail basis and that he had purchased building materials from the respondent on a piecemeal basis by issuing blank cheques as security purpose. However, in his chief examination, the accused categorically deposed that he had no business transaction with the respondent and he did not



even know the respondent. Thus, the defence taken by the accused is self-contradictory. The accused has admitted the signature found in the cheques and also issuance of the cheques. Therefore, the respondent has discharged his initial burden and the Trial Court rightly convicted the accused, which has been confirmed by the Appellate Court. Hence, the concurrent findings of both the Courts below does not warrant interference by this Court.

8. Heard the learned counsel appearing on either side and perused the materials available on record.

9. The respondent lodged the complaint alleging that the accused borrowed a sum of Rs.1,50,000/- from the respondent during the months of July and August, 2009. However, the respondent failed to state on what date the accused had borrowed a sum of Rs.1,50,000/-. Further, the case of the respondent is that the accused used to purchase building materials from him on credit basis by maintaining a running accounts. The respondent examined himself as P.W.1. In his evidence, he categorically admitted that two persons, viz., Manikandan and Saravanan, were working under him and they were involved in the sale of building materials. However, he denied that he has no way connected with the Ranjana Agency. While being so, admittedly, the accused had purchased building materials from the said Manikandan and Saravanan and issued cheques in connection with such transactions. It was also



admitted by the respondent herein. Though the respondent denied that the cheques were issued for security purpose, the issuance of seven cheques, including six cheques dated in the month of January and one cheque in the month of February, create a doubt as to whether the cheques were issued for legally enforceable debt. If the cheques had been issued for repayment of a loan by instalments, it would be expected that the cheques would be spread over successive months. The pattern of issuance, therefore, probailises the defence of the accused. The relevant portion of the deposition of the respondent is as follows :

“vjphpf;F rg;is bra;j bghUSf;fhd bjhifia mtanu te;J
bfhLg;ghuh my;yJ ehd; brd;W gzj;ij tNy; bra;ntdh vd;W
nfl;lhy; ehnd nehpy; brd;W gzj;ij tNy; bra;ntd;/ vd;idj; jtpu
ntW ahuhtJ bjhifia tNy; bra;J tUthh;fsh vd;W nfl;lhy; vd;
filapy; ntiy bra;j rutzd; vd;gtUk; tNy; bra;J tUthh;/ me;j rutzd;
vd;tUk; gzj;ij tNy; bra;J bfhz;L tUk; nghJ urPij bfhLg;ghh;
vd;W brhd;dhy; Mkhk;/ rutzid jtpu ntW ahuhtJ tNy; bra;a
nghapUf;fpwhuh vd;W nfl;lhy; kzpfz;ld; vd;gtUk; tNy; bra;a
nghthh;/ tNy; bra;a bry;Yk; nghJ ngyd;!; gzj;ij fl;l ntz;oaJ
bjhlh;ghd rPl;il vLj;J bfhz;L bry;thh;fs;/”

10. Thus, it is clear that the accused has categorically rebutted the presumption as contemplated under Section 139 of the Negotiable Instruments Act. Therefore, even then, the respondent failed to prove that the cheques were issued for legally enforceable debt. He also deposed that he used to purchase building materials from “Ranjana Agency” which is run by one Manikandan



and Saravanan, and issued the cheques for security purpose in the course of such transactions. Therefore, the petitioner categorically rebutted the presumption under Section 139 of the Negotiable Instruments Act. The presumption arises only when foundational facts are proved, and once a probable defence is shown, the burden shifts back to the complainant. Even then, the respondent failed to prove that the cheques were issued for legally enforceable debt. Further, the presumption cannot be invoked to fill up lacunae in the respondent's evidence. Unfortunately, without considering the facts and circumstances of the case, the Trial Court and the Appellate Court convicted the accused for the offence punishable under Section 138 of the Negotiable Instruments Act and as such, the conviction and sentence cannot be sustained and are liable to be set aside.

11. In view of the above, the Judgment dated 15.10.2019 passed in C.A.No.115 of 2018 on the file of the XVI Additional District and Sessions Judge, Chennai, confirming the order of conviction and sentence imposed by the Judgment dated 03.03.2018 in C.C.No.2601 of 2010 on the file of the Metropolitan Magistrate, Fast Track Court – I, Allikulam, is hereby set aside. Accordingly, this Criminal Revision Case stands allowed.

27-03-2026

Index: Yes/No
Speaking/Non-speaking order



Neutral Citation: Yes/No

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To

1.The XVI Additional District and Sessions Court,
Chennai.

2.The Metropolitan Magistrate FTC-I Court,
Allikulam, Chennai.



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G.K.ILANTHIRAIYAN J.

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