



Crl.R.C.No.307 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2022

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.No.307 of 2016

N.S.Krishnakumar

... Petitioner

Vs.

S.M.C.Arun

... Respondent

Prayer: Criminal Revision Case is filed under Section 397 and 401 of Criminal Procedure Code, to set aside the order in Crl.A.No.26 of 2014 on the file of the Principal Sessions Judge, Namakkal confirming the order passed by the Judicial Magistrate, Fast Tract Court (Magisterial Level), Tiruchengode, in S.T.C.No.126 of 2013 dated 12.05.2014.

For Petitioner : Mr.T.Meganathan

For Respondent : No Appearance

ORDER

This Criminal Revision Case is filed against the concurrent finding of the Courts below holding the petitioner herein guilty of offence



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under Section 138 of Negotiable Instruments Act, for dishonouring the cheque drawn for Rs.5 lakhs in favour of the complainant.

2. As per the complaint, this petitioner has borrowed a sum of Rs.5 lakhs as loan and to discharge the said debt, issued subject cheque bearing No.055689 for a sum of Rs.5 lakhs dated 26.12.2012 drawn at HSBC Premier Bank, Coimbatore. On presentation of the said cheque, the same got bounced with a memo dated 28.12.2012. When this was informed to the petitioner by the complainant, the petitioner requested to represent the cheque and he will make all arrangements to honour it. But then, the second presentation of the cheque also faced the same plight.

2(i). Therefore, a statutory notice dated 21.03.2013 was issued to the petitioner. On receiving the statutory notice, the petitioner has replied stating that the cheques presumed to be a forged one and there is no enforceable liability to pay and in fact, the two cheques were forcibly taken away from the petitioner and in connection with that a criminal complaint also filed before RS Puram, B2 Police Station and the same is pending.

2(ii). However, in the course of the trial, the petitioner / accused has



not produced any document to substantiate the defence and probabalise his case. Hence, the trial Court as well as the appellate Court found the petitioner guilty and convicted him to undergo imprisonment for a period of six months and fine of Rs.5,000/- in default, one month simple imprisonment.

3. Learned counsel appearing for the petitioner submitted that the Courts below erred in holding the petitioner guilty, when there is a clear case of rebuttal through reply notice denying the liability and further, the police complaint given much before the presentation of the cheque also fortifies the case of the petitioner. Though, the points raised in the revision petition, if found to be proved, the conviction of the petitioner would have been rendered erroneous, unfortunately, what is contended in the reply notice marked as Ex.P7, not corroborated by any documentary evidence.

4. In the said circumstances, the finding of the Courts below cannot be faulted. For the said reason, this Court finds no merit in the revision petition. Hence, the Criminal Revision Case is dismissed, by



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confirming the judgment of conviction and sentence passed by the Courts
below.

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AT

Index : Yes/No

Speaking / Non-speaking

To

1.The Principal Sessions Judge, Namakkal.

2.The Judicial Magistrate, Fast Tract Court (Magisterial Level),
Tiruchengode.



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Dr.G.JAYACHANDRAN,J.

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