



**CrI.R.C.(MD).No.250 of 2022**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 03.08.2023**

**CORAM :**

**THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN**

**CrI.R.C(MD).No.250 of 2023**

**and**

**CrI.M.P(MD).Nos.3487 and 10356 of 2023**

J.Ebanezer

... Petitioner/Appellant/Accused

**Vs.**

1.L.Robin Kishore

... 1<sup>st</sup> Respondent/1<sup>st</sup> Respondent/  
Complainant

2.State of Tamil Nadu,  
Rep by the Public Prosecutor,  
Nagercoil.

... 2<sup>nd</sup> Respondent/2<sup>nd</sup> Respondent/  
Formal Party

**PRAYER:** Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C., to call for the records and set aside the judgment dated 20.01.2023 passed in C.A.No.54 of 2017 on the file of the Additional Sessions Court, (Fast Track), Kanyakumari District at Nagercoil, confirming the conviction and sentence to undergo simple imprisonment for six months u/s 138 of Negotiable Instruments Act and to pay a compensation of Rs.10,00,000/- the cheque amount in default to undergo further simple imprisonment for one month by the judgment dated 23.03.2017 passed in S.T.C.No.349 of 2014 on the Fast Track Court (Magistrate Level) No.I, Nagercoil.



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For Petitioner : Mr.S.Vashik Ali

For R2 : Mr.M.Vaikkam Karunanithi  
Government Advocate (Crl.Side)

## **ORDER**

This Criminal Revision Case has been filed to set aside the Judgment of the Appellate Court passed by the Additional Sessions Court, (Fast Track), Kanyakumari District at Nagercoil, in C.A.No.54 of 2017 dated 02.09.2022 confirming the Judgment in S.T.C.No.349 of 2014, dated 23.03.2017 on the file of the Fast Track Court (Magistrate Level) No.I, Nagercoil.

2. The petitioner borrowed a sum of Rs.10,00,000/- from the first respondent on 03.09.2014. To discharge the said debt, he issued a post dated cheque bearing No.217689, dated 07.10.2014 drawn on the bank of Indian Overseas Bank, Vettoornimadam Branch. The respondent presented the cheque before the Canara Bank, K.P. Road Branch on 07.10.2014 and the same was returned on 08.10.2014 with an endorsement “funds in-sufficient”. So, the respondent issued the legal notice on 18.10.2014. The petitioner received the notice on 20.10.2014.



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Without making any payment, he sent a reply notice on 29.10.2014. In such circumstances, the respondent filed a complaint under Section 138 before the Fast Track Court (Magistrate Level) No.I, Nagercoil. The learned Judicial Magistrate taken the complaint on file in S.T.C.No.349 of 2014.

3. Thereafter, on receipt of the summons, the petitioner appeared and contested the case. The learned Trial Judge after following the procedure and examined PW.1 to P.W.4 and DW.1 and perused the documents Ex.A1 to Ex.A8 and Ex.D.1 and Ex.D.2, passed the conviction under Section 138 of Negotiable Instruments Act to undergo 6 months Simple Imprisonment and directed to pay compensation of Rs.10,00,000/-, in default to undergo 1 month Simple Imprisonment by the Judgment, dated 23.03.2017.

4. Aggrieved over the same, the petitioner filed the Criminal Appeal in C.A.No.54 of 2017 on the file of the Additional Sessions Court, (Fast Track), Kanyakumari District at Nagercoil. The learned Appellate Judge also confirmed the same. Hence, the petitioner preferred this revision before this Court.



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5. During the pendency of the above revision, the parties entered into compromise and they have filed the compromise memo. To record the compromise memo, this Court directed the parties to appear before this Court and the parties also appeared before this Court. Thereafter, they filed the compounding petition before this Court in CrI.M.P(MD).No.10356 of 2023.

6. In view of the above compromise and the parties are also appeared before this Court and affirmed the terms of the compromise, this Court is inclined to order the compounding of offence under Section 147 of NI Act and 320 Cr.P.C.,

7. Since the offence is compoundable offence and more particularly, the petitioner has paid the entire amount as agreed between them, this Court is inclined to allow this revision with the following terms:

(i) The compounding petition filed in CrI.M.P(MD).No.10356 of 2023 is allowed.

(ii) The conviction and sentence of imprisonment and grant of compensation in STC.No.349 of 2014 on the file of the Fast Track Court



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(Magistrate Level) No.I, Nagercoil, confirmed in C.A.No.54 of 2017 on the file of the Additional Sessions Court, (Fast Track), Kanyakumari District at Nagercoil, is hereby set aside and the accused is acquitted from the charges levelled against him. Bail bond if any, executed by the accused shall stand discharged.

8.Accordingly, this Criminal Revision Case is allowed.  
Consequently, the connected Miscellaneous Petition is closed.

**03.08.2023**

NCC :Yes/No  
Index :Yes/No  
Internet : Yes/ No  
dss

To

1. The Additional Sessions Court, (Fast Track),  
Kanyakumari District at Nagercoil.
2. The Fast Track Court (Magistrate Level) No.I,  
Nagercoil.
- 3..State of Tamil Nadu,  
Rep by the Public Prosecutor,  
Nagercoil.



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**K.K. RAMAKRISHNAN. J.,**

dss

4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

5.The Section Officer,  
Record Section (Crl.)  
Madurai Bench of Madras High Court, Madurai.

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