



Crl.R.C.No.1275 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No. 1275 of 2023

and

Crl.M.P.No.6635 of 2025

C.Milton Stebakumar

... Petitioner

..VS..

C.Venkat

... Respondent

Criminal Revision Case filed under Sections 397(1) read with 401 Cr.P.C., to set aside the judgment dated 22.02.2022 passed in CA.No.90 of 2019 on the file of the Principal District and Sessions Court, Chengalpattu confirming the judgment dated 23.10.2019 passed in C.C.No.58 of 2018 on the file of the Judicial Magistrate Court (Fast Track Court), Alandur, Chengalpattu District by allowing the present Criminal Revision Petition.

For Petitioner : Mr.M.Karthik

For Respondent : Mr.Rajkumar Paul



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ORDER

This Criminal Revision Petition has been preferred against the judgment dated 22.02.2022 passed in Crl.A.No.90 of 2019 on the file of the Principal District and Sessions Court, Chengalpattu confirming the judgment dated 23.10.2019 passed in C.C.No.58 of 2018 on the file of the Judicial Magistrate Court (Fast Track Court), Alandur, Chengalpattu District.

2. The respondent filed a private complaint under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as 'N.I.Act') before the learned Judicial Magistrate, Fast Track Court (Magisterial Level) Alandur in C.C.No.58 of 2018.

3. The case of the respondent-complainant, as per the complaint filed before the trial Court is that, the complainant and accused were involved in the business of selling milk and the accused used to purchase milk from the complainant. While that being so, the accused had purchased milk worth about Rs.4,43,985/- from the complainant, but he did not repay the said amount, and on several requests made by the



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complainant, the accused issued a cheque. When the complainant presented the cheque for collection, it was returned with an endorsement "funds insufficient" through a Return Memo, dated 16.11.2017.

4. Therefore, the respondent issued a statutory notice on 28.11.2017, which was received by the petitioner. On receipt of the statutory notice, the revision petitioner neither repaid the amount within the statutory period, nor sent any reply denying the liability. Hence, the respondent was constrained to file the complaint.

5. In order to prove the case, on the side of the complainant, he examined himself as P.W.1 and four documents were marked as Ex.P1 to Ex.P4. On the side of the revision petitioner-accused, no oral and documentary evidence was produced.

6. The learned Judicial Magistrate, after trial, convicted the revision petitioner-accused and sentenced him to undergo simple imprisonment for one year and directed the petitioner-accused to pay a sum of Rs.4,43,985/- as compensation under Section 357 Cr.P.C., to the complainant within 30 days, and in default to pay the compensation, the



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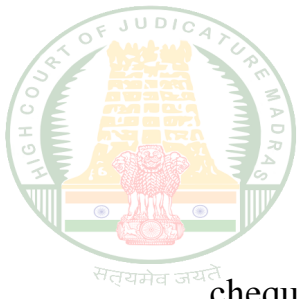
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accused shall undergo simple imprisonment for 30 days. Challenging the judgment of conviction and sentence imposed by the trial Court, the revision petitioner-accused filed an appeal in Crl.A.No.90 of 2019 on the file of the Principal District and Sessions Judge, Kancheepuram District at Chengalpattu, which was dismissed for default. As against the judgment of conviction and sentence passed by the Courts below, the revision petitioner-accused has filed the present revision petition.

7. Heard both sides and perused the materials available on record.

8. The main defence taken by the revision petitioner-accused is that the respondent-complainant abducted the petitioner-accused and his children and by coercion and life threat, obtained signature in the blank cheque, which itself shows that the petitioner himself admitted the signature in the disputed cheque. However, the petitioner-accused has not produced any document to prove that he made a complaint against the respondent-complainant for the aforesaid action. In the absence of the same, it is to be held that the cheque is issued by the accused only to discharge the legally enforceable debt.

9. It is settled proposition of law that when once the execution of



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cheque is admitted, Section 139 of the N.I.Act mandates a presumption that the cheque was issued for discharge of legally enforceable debt or other liability. No doubt, the presumption under Section 139 of the N.I.Act is a rebuttable presumption and the onus is on the accused to raise the probable defence, wherein, the existence of a legally enforceable debt or liability can be contested. The standard of proof for rebutting the presumption is not with same rigor as prosecution is required to prove its case beyond reasonable doubt.

10. In the present case, it is the contention of the petitioner-accused that after receipt of statutory notice he had sent reply notice, but the respondent-complainant had not annexed it with the complaint or mentioned about his proof affidavit. During the cross examination, the petitioner-accused had put a suggestion before the respondent-complainant that he suppressed the reply notice sent by him, for which, the respondent-complainant has stated that till filing of the complaint, no reply notice was received by him. If at all the reply notice is very important, the petitioner ought to have filed the said reply as an exhibit, but no such efforts were taken by the petitioner. Further contention of the



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petitioner-accused is that the complainant had received many cheques from the accused by abduction and coercion and misused one of those cheques, but no proof was produced by the petitioner-accused to establish his defence before the Court below. In the absence of the same, this Court finds that the petitioner-accused has not rebutted the presumption under Section 139 of N.I.Act. This revision petition arises out of the concurrent findings of the both the trial Court and the lower appellate Court. Both the Courts below had already appreciated and re-appreciated the entire evidence and had also rendered finding that the respondent-complainant proved his case beyond reasonable doubt and the petitioner-accused has not rebutted the presumption in the manner known to law.

11. The scope of revision is very limited. The Trial Court and the Appellate Court had already appreciated the entire evidence and also given the findings, while exercising the revisional jurisdiction, this Court cannot sit in the arm chair of the Appellate Court and re-appreciate the evidence. Therefore, this Court has to see only as to whether there is any perversity in appreciation of evidence in the judgment of the Courts below.



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12. On a combined reading of the entire materials and the judgments of both the Courts below, this Court finds that the petitioner has not rebutted the statutory presumption and in the absence of the same, it is to be held that the cheque is issued by the accused only to discharge the legally enforceable debt.

13.Hence, this Court does not find any perversity, illegality or infirmity in the judgments of both the Courts below. As there is no merit in the revision petition, the same is liable to be dismissed. Accordingly, this Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

07.04.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation Case : Yes/No
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To

1. The Principal District and Sessions Judge,
Chengalpattu.
2. The Judicial Magistrate Court (Fast Track Court),
Alandur, Chengalpattu District.

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P.VELMURUGAN, J.

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