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Crl.R.C.No.493 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.06.2025

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.No.493 of 2023

M.B.Sagadevan

... Petitioner

Vs.

1. Revathy Bojaraj

2. The State rep. by
Public Prosecutor of the Nilgiris
Ootacamund, Nilgiris

...Respondents

Criminal Revision Case filed under Sections 397 (1) and 401 of Criminal Procedure Code to set aside the Judgment of conviction under Section 138 of Negotiable Instrument Act passed by the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Udthagamandalam at Nilgiris in C.A.No.49 of 2015 on 07.01.2021 sentencing the petitioner to undergo one year Simple Imprisonment and to pay a fine of Rs.1,000/- in default to undergo Simple Imprisonment for one month and thereby confirming the Judgment and Conviction passed by the learned Fast Track Judicial Magistrate at Coonoor, Nilgiris in C.C.No.75 of 2014 dated 07.04.2015.

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For Petitioner : Mr.A.Bobblie

For Respondents : Mr.M.Aloyisius Raja Pragash for R1
Mr.A.Gopinath for R2
Government Advocate (Crl.Side)

ORDER

The present Revision has been preferred against the Judgment passed in C.A.No.49 of 2015 dated 07.01.2021 on the file of the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Udthagamandalam thereby confirming the order of conviction and sentence imposed in C.C.No.75 of 2014 dated 07.04.2015 on the file of the learned Fast Track Judicial Magistrate, Coonoor for offence punishable under Section 138 of Negotiable Instruments Act.

2. The petitioner herein is the accused for the offence punishable under Section 138 of Negotiable Instruments Act. The petitioner borrowed a sum of Rs.5,00,000/- [Rupees five lakhs only] from the defacto complainant and towards repayment of the said amount, the petitioner issued a cheque. When the said cheque was presented for collection, it was returned on the ground 'Insufficient Funds'. After causing statutory notice, the 1st respondent filed a complaint.



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3. On a perusal of the order passed by the trial court in C.C.No.75 of 2014 dated 07.04.2015 it is seen that the petitioner was found guilty for offence punishable under Section 138 of Negotiable Instruments Act and sentenced one year simple imprisonment and to pay a fine of Rs.1,000/-, in default to undergo Simple Imprisonment for one month. Aggrieved by the same, the petitioner filed an appeal in C.A.No.49 of 2015 and by order dated 07.01.2021, the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court) Udthagamandalam, Nilgiris dismissed the appeal by confirming the sentence imposed by the trial court. Hence the petitioner has come up with the present Revision.

4. The learned counsel for the petitioner submits that the respondents failed to discharge the initial burden as contemplated under Section 138 of Negotiable Instruments Act. Further, the alleged cheque was not issued for any legally enforceable debt.

5. Heard the learned counsel appearing for the petitioner and the learned counsel for the 1st respondent and the learned Government Advocate (Crl.Side) for the 2nd respondent and perused the documents placed on record.



6. On a perusal of the documents it reveals that on the debt of payable of amount to the tune of Rs.5,00,000/-, the petitioner had also executed promissory note, which was marked as Ex.P.7. After dishonour of the cheque, the 1st respondent / defacto complainant caused legal notice and on receipt of the same, the petitioner failed to issue any reply notice. In fact, the 1st respondent was examined as P.W.1 and she was not cross examined by the petitioner in order to rebut the presumption arisen under Sections 118 and 139 of Negotiable Instruments Act. Therefore, the 1st respondent initially discharged her burden as contemplated under Section 138 of Negotiable Instruments Act.

7. In view of the above, both the courts below have rightly convicted the petitioner and this Court has no reason to interfere with the order of conviction and sentence imposed by both the courts below. Accordingly, the present Revision is dismissed. However, at this stage, the learned counsel appearing for the petitioner would submit that the petitioner may be permitted to settle the amount. Acceding to the request of the learned counsel for the petitioner, this Court is inclined to direct the petitioner to settle the cheque amount to the 1st respondent on or before 09.07.2025 and if the petitioner complies with the said direction, the order of conviction



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and sentence imposed by the trial court and confirmed by the appellate court, shall stand set aside.

11.06.2025

Index : Yes/No
Internet : Yes/No
Speaking /Non-Speaking order
ssd

To

1. The Sessions Judge,
Magalir Neethimandram (Fast Track Mahila Court),
Udhagamandalam at Nilgiris
2. The V Additional District & Sessions Judge,
Coimbatore
3. The State rep. by
Public Prosecutor of the Nilgiris
Ootacamund, Nilgiris
4. The Public Prosecutor,
High Court, Madras



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G.K.ILANTHIRAIYAN, J.,

ssd

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