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Crl.RC.No.444 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.444 of 2025 and
Crl.M.P.Nos.5120 and 5121 of 2025

A.R. Subash

... Petitioner

Vs.

M.Suresh

... Respondent

Prayer: Criminal Revision Case filed under under Sections 397 and 401 of Cr.P.C./Sections 438 and 442 of B.N.S.S. to set aside the judgment and sentence dated 19.02.2025 in C.A.No.192 of 2023 on the file of Additional District Judge (Fast Track Court, Mettur), confirming the judgment and setence dated 04.10.2023 in S.T.C. No.725 of 2016 on the file of Judicial Magistrate Court No.II, Mettur.

For Petitioner	: Mr.S.Kumar
For Respondent	: Mr.P.Tamizhkumaran



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ORDER

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This Criminal Revision Petition has been filed by the petitioner to set aside the judgment and sentence dated 19.02.2025 in Crl.A.No.192 of 2023 on the file of Additional District Judge (Fast Track Court) Mettur, confirming the judgment and sentence dated 04.10.2023 in S.T.C. No.725 of 2016 on the file of Judicial Magistrate Court No.II, Mettur.

2. The case of the petitioner is that the respondent filed a complaint against the petitioner under Section 138 of Negotiable Instruments Act read with Section 200 Cr.P.C. in S.T.C. No.725 of 2016 before the Judicial Magistrate No.II, Mettur, alleging that the petitioner borrowed a sum of Rs.7 lakhs from the respondent on 15.03.2016 and in repayment of the loan amount, the petitioner issued a cheque bearing cheque No.863522 dated 15.04.2016. Thereafter, when the cheque was presented in the bank for collection on 15.06.2016, the same was returned as "funds insufficient" vide memo dated 17.06.2016 which was received by the respondent on 20.06.2016. Hence, the



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respondent sent a demand notice to the petitioner on 29.06.2019 and since the petitioner sent a reply on 08.07.2016 with false averments, the respondent filed the private complaint. The learned Magistrate after enquiry, convicted the petitioner for the offence under Section 138 of Negotiable Instruments Act and convicted and sentenced him to undergo simple imprisonment for a period of one year and to pay the cheque amount of Rs.7 lakhs as compensation to the respondent and in default of payment, to undergo one month simple imprisonment. Aggrieved by the judgment of conviction and sentence, the petitioner preferred an appeal in Crl.A.No.192 of 2023 before the Additional District Judge (Fast Track Court), Mettur. But the same was dismissed by judgment dated 19.02.2025 by confirming the judgement of the trial Court. Hence, challenging the same, the petitioner has filed the present revision before this Court.

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

4. It is seen from the records and also from the reply sent by the



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petitioner and the defence taken by the petitioner during cross examination of the respondent's witness whereby, the petitioner admitted the execution of cheque and also the signature and he has denied only the liability.

5. It is settled proposition of law that once the execution of cheque is admitted and the signature is not denied, there is a statutory presumption under Section 139 of Negotiable Instruments Act that the cheque was issued to discharge a legally enforceable debt. No doubt that the said presumption is a rebuttable presumption and the accused can always rebut the presumption in the manner known to law. Though rebutting a presumption is not heavy as the burden on the prosecution in the criminal case, the accused can rebut the presumption in the manner known to law with preponderance of probabilities.

6. In this case, once the respondent/complainant established the foundational fact that the cheque was issued towards repayment of hand loan Rs.7 lakhs received by the petitioner and when the petitioner admitted the execution of the cheque in his reply to the demand notice, there is a statutory



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presumption that the cheque was issued for discharge of legally enforceable debt and it is for the petitioner/accused to substantiate his defence that the cheque was not issued for discharge of legally enforceable debt.

7. A perusal of records shows that the petitioner has not substantiated his defence that the cheque was not issued to discharge any legally enforceable debt and therefore, the statutory presumption under Section 139 of Negotiable Instruments Act has not been rebutted by the petitioner in the manner known to law.

8. Being a revisional Court, this Court cannot traverse beyond the scope of revisional Court and cannot sit in the arm chair of the appellate Court and re-appreciate the entire evidence. The revisional Court has to see whether there is any perversity in the appreciation of evidence and any illegality or infirmity in the findings of the Courts below.

9. As stated above, on a perusal of the entire materials and the judgments of the Courts below, this Court finds that there is no perversity in the



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appreciation of evidence and no illegality or infirmity in the findings of the

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Courts below and this Court finds no compelled reason to interfere with the judgments of the Courts below. Therefore, there is no merits in this revision.

10. Accordingly, this Criminal Revision Case is dismissed.

Consequently, the Criminal Miscellaneous Petitions are closed.

25.04.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

1. The Additional District Judge (Fast Track Court)
Mettur,

2. The Judicial Magistrate No.II,
Mettur



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P.VELMURUGAN. J.

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