



Crl.R.C.No.629 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

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S. Jeeva

... Petitioner

Versus

K. Balan

... Respondent

PRAYER: Criminal Revision Case is filed under Sections 397 & 401 of the Criminal Procedure Code, 1973, to set aside the judgement dated 29.06.2022 in Crl.A.No.57 of 2021, on the file of the Special Court for Trial of Cases registered under SC/ST (POA), Act, Namakkal, confirming the conviction and sentence in the judgement dated 08.03.2021 made in C.C.No.526 of 2018, on the file of the Judicial Magistrate, No.1, Namakkal.

For Petitioner : Mr. S. Mohan Raj,
Mr. T. Yogesh, and Mr. R.M. Bhuvana

For Respondent : Mr. G. Ravi Kumar

ORDER

This revision has been preferred against the Judgement dated 29.06.2022 in Crl.A.No.57 of 2021, on the file of the Special Court for Trial of Cases registered under Schedule Caste/Schedule Tribes (Prevention of Atrocities) SC/ST (POA), Act, Namakkal, thereby confirming the conviction and sentence



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in the Judgement dated 08.03.2021 made in C.C.No.526 of 2018, on the file of

WEB the Judicial Magistrate, No.1, Namakkal.

2. The petitioner is the accused for the offence under Section 138 of the Negotiable Instruments Act, 1881, alleging that the respondent had given a loan of Rs.10,00,000/- on the request made by the petitioner/accused on 05.04.2018 through RTGS in favour of the petitioner. In order to repay the said sum, the petitioner issued a cheque, which was presented for collection. However, the cheque was returned as 'funds insufficient'. After causing statutory notice, the respondent lodged the complaint, and the same was taken cognizance by the Trial Court. In order to prove the complaint, the complainant examined himself as P.W.1 and marked Exs.P1 to P5. On the side of the petitioner, no one was examined and no document was marked before the Trial Court to disprove the case of the complainant.

3. On perusal of the oral and documentary evidence, the Trial Court found the accused guilty and sentenced him to undergo 2 years simple imprisonment and also directed him to pay a compensation of Rs.20,00,000/-, being double the cheque amount. Aggrieved by the same, the petitioner/accused preferred an appeal in Crl.A.No.57 of 2021 and the appeal was also dismissed



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by confirming the order passed by the Trial Court. Hence, the present revision.

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4. The learned counsel for the petitioner submitted that the respondent categorically admitted that amount allegedly given as a loan in favour of the petitioner was not accounted by him for income tax purpose. The petitioner and the respondent were engaged in real estate business, and the said amount was transferred to the petitioner as his share of profit. No loan was involved as alleged by the respondent. As per their agreement for doing real estate business, they were invested some huge amount and for the remaining amount the cheque in question was issued as a security purpose. The said cheque was misused by the respondent and initiated proceedings under Section 138 of the N.I. Act. Therefore, the cheque was not issued for any legally enforceable debt. Without considering the facts and circumstances of the case, the Trial Court as well as the Appellate Court had mechanically convicted the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

5. Per contra, the learned counsel appearing for the respondent submitted that the petitioner did not deny the signature found on the cheque or the issuance of the cheque. Therefore, the respondent categorically discharged



the initial burden as contemplated under Section 138 of the N.I. Act. Though

the petitioner had taken a different stand, in order to substantiate the same, the petitioner did not even produce any material to that effect. In fact, the amount was transferred through RTGS in favour of the petitioner, and the respondent marked the bank statements of his account as Ex.P3. Therefore, both the Trial Court as well as the Appellate Court rightly convicted the petitioner and it does not warrant any interference of this Court.

6. Heard the learned counsel appearing for both sides and perused the materials available on record.

7. Upon perusal of the records, it is seen that the respondent had transferred the sum of Rs.10 Lakhs through RTGS in favour of the petitioner as a loan. It was not disputed by the petitioner herein. In order to repay the said sum, the petitioner issued a cheque. However, the petitioner failed to honour the same, and as such, the respondent initiated proceedings under Section 138 of the Negotiable Instruments Act, 1881. Though the petitioner had taken the specific defense that the petitioner and the respondent were doing real estate business and the cheque was issued for security purpose, the petitioner did not even produced any material to substantiate this contention. There were no



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circumstances to believe that the cheque was issued for the security purposes.

On the other hand, the respondent had categorically proved that the said amount of Rs.10 Lakhs was transferred through RTGS in favour of the petitioner, in order to repay the said alleged amount, the petitioner issued the cheque. Therefore, the petitioner failed to rebut the presumption as contemplated under the N.I. Act. Hence, both the Courts below concurrently held that the petitioner was guilty of the offence under Section 138 of the Negotiable Instruments Act, 1881. Therefore, this Court finds no illegality or infirmity in the order passed by the Trial Court or the Appellate Court that warrant interference.

8. Accordingly, this Criminal Revision Case is dismissed, confirming the concurrent findings of the Courts below. Consequently, the connected miscellaneous petition is also closed.

29.07.2025

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

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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Special Court for Trial of Cases registered under SC/ST (POA), Act, Namakkal.
- 2.The Judicial Magistrate, No.1, Namakkal.

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