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Crl.R.C.No.1318 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.1318 of 2022

Ravindran

.. Petitioner

Versus

Ramakrishnan

.. Respondent

Prayer : Criminal Revision Case is filed under Section 397 & 401 of Cr.P.C., to set aside the judgment and acquittal passed in C.A.No.242 of 2020, dated 24.02.2022 on the file of the learned I Additional District and Sessions Judge, Coimbatore and allowing the Revision Petition throughout by confirming the Trial Court judgment of conviction in C.C.No.770 of 2014 on the file of the learned Judicial Magistrate, Fast Track Court No.I, Coimbatore.

For Petitioner : Mr.S.Shanmugavelayutham,
Senior Counsel,
for Mr.A.Nowfal



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For Respondent : Mr.R.Vinayaga Vishnu



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ORDER

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This Criminal Revision Case is directed against the judgment of the learned I Additional District and Sessions Judge, Coimbatore, dated 24.02.2022 made in Crl.A.No.242 of 2020. By the said judgment, the conviction of the respondent for an offence under Section 138 of the Negotiable Instruments Act, 1881 and the sentence imposed vide judgment, dated 24.11.2020 by the learned Judicial Magistrate, Fast Track Court-I, Coimbatore, was set aside by the Appellate Court.

2. This Criminal Revision Case is not maintainable, in as much as an appeal would lie against an order of acquittal and since this revision is filed without the said knowledge, this is a fit case to treat as an Criminal Appeal and accordingly, this case is disposed of on merits.

3. Heard *Mr.S.Shanmugavelayutham*, learned Senior Counsel for the petitioner and *Mr.R.Vinayaga Vishnu*, learned Counsel for the respondent.



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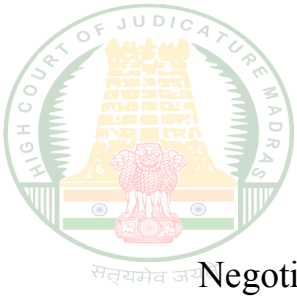
4. *Mr.S.Shanmugavelayutham*, the learned Senior Counsel for the petitioner, by taking this Court through the various findings that are made by

the Appellate Court, would submit that the findings are perverse in nature.

Ex.D-6 pertains to an earlier transaction and not for the current transaction.

When the amounts are said to have been given over a period of time for the business purposes and when the signature in the cheque is not disputed, when the presumption operates in favour of the complainant and when nothing has been done by the accused to rebut the presumption, the Appellate Court ought not to have interfered with the well considered judgment of the Trial Court.

5. The further findings, relating to the payments being made, are also perverse inasmuch as only pay in slips were produced and therefore, the same could not be co-related to the instant transaction. Under the said circumstances, when due notice has been issued under Section 138 of the



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Negotiable Instruments Act, 1881, after the dishonour of the cheque and when the signature in the cheque is admitted and when the loan amounts are also duly supported by **Ex.P-7** to **Ex.P-9** promissory notes, then, the Appellate Court ought not to have interfered with the judgment of the Trial Court.

6. Per *contra*, *Mr.R.Vinayaga Vishnu*, the learned Counsel for the respondent/accused would submit that on a re-appreciation of the evidence, when the Appellate Court has considered the evidence on record, especially, the defence evidence that is let in by the respondent, there is nothing for this Court to interfere in exercise of the revisionary jurisdiction. On behalf of the accused, the accused examined himself as *D.W.1* and **Ex.D-1** to **Ex.D-9** were marked. It is not that **Ex.D-3**, **Ex.D-4** and **Ex.D-5** pay in slips alone were marked. They were also further supported by the copy of the Customer Account Agreement, which is also marked as **Ex.D-1** and the other empty documents that were taken in respect of the said transaction, were also



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marked as **Ex.D-2** series. Therefore, even prior to the filing of the complaint, when the Cheque is mentioned in **Ex.D-6** letter, no exception whatsoever can be taken to the various findings of the Appellate Court.

7. I have considered the rival submissions made on either side and perused the material records of the case.

8. Firstly, the Appellate Court had considered the evidence on record in detail. It had taken into account that the allegation that is made by the complainant is that a sum of Rs.42,80,000/- was borrowed on various dates. The Appellate Court took into account the conduct of the petitioner/complainant that when, on account of the earlier borrowings, a sum of Rs.35,00,000/- was due, again, another sum of Rs.6,00,000/- is said to have been given on the date of **Ex.P-6**. The Appellate Court also took into consideration that absolutely, no civil proceedings whatsoever were initiated pursuant to the liabilities.



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9. The Appellate Court also considered the arguments and the averments in the promissory notes, whereby, when separate promissory notes in ***Ex.P-7*** and ***Ex.P-8*** have been executed, in ***Ex.P-6*** once again the said borrowals seem to have been incorporated. On the other hand, the Trial Court considered the transactions between the parties and when pay in slips were marked as ***Ex.D-3*** to ***Ex.D-5*** and ***Ex.D-6***, the letter that is issued by the complainant with reference to the said share trading business, which evidences handing over of the unfilled promissory notes, stamp papers etc., the Trial Court believed the version of the accused and held that the presumption was rebutted to the level of preponderance of probability and in view of the overwhelming evidence that is let in by the defence, the overall version of the complainant becomes doubtful and granted the benefit of the doubt to the accused and acquitted the accused.

10. Such findings that are made in detail after due appreciation of the



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evidence, cannot be termed as perverse or an impossible view. Accordingly, this Court is unable to interfere with the matter in a revision against the acquittal.

11. Finding no merits, this Criminal Revision Case, which is converted as an Criminal Appeal is dismissed. Consequently, connected miscellaneous petition is closed.

25.07.2025

Neutral Citation : no
grs

To

1. The I Additional District and Sessions Judge,
Coimbatore.
2. The Judicial Magistrate,
Fast Track Court No.I,
Coimbatore.



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D.BHARATHA CHAKRAVARTHY, J.,

grs

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