



CrI.R.C.No.328 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 16.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.R.C.No.328 of 2023

A.Palanivel

... Petitioner

Vs.

C.Duraisamy

... Respondent

PRAYER: Criminal Revision has been filed under Section 397 r/w 401 of Cr.P.C., praying to set aside the judgment dated 22.04.2022 passed by the learned Special Judge, Special Court for Trial of cases registered under SC/ST (POA) Act, Namakkal, in C.A.No.52 of 2021 confirming the conviction under Section 138 of the Negotiable Instruments Act and sentence of the petitioner to undergo imprisonment of 6 months and to pay a compensation of Rs.6,00,000/- to the respondent passed by the learned Judicial Magistrate (Fast Track Court) Trichengode by judgment dated 22.03.2021 in S.T.C.No.358 of 2019.

For Petitioner : Mr.L.Mouli

For Respondent : Mr.S.Viswanathan
For M/s.Dass and Viswa Associates

ORDER

This Criminal Revision has been preferred against the judgment dated 22.04.2022, passed by the learned Special Judge, Special Court for Trial of cases registered under SC/ST (POA) Act, Namakkal, in C.A.No.52 of 2021,



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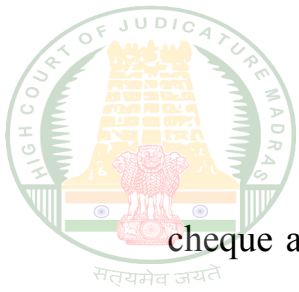
confirming the conviction and sentence imposed on the petitioner dated

22.03.2021 passed by the learned Judicial Magistrate (Fast Track Court)

Trichengode, in S.T.C.No.358 of 2019, for the offences punishable under Section 138 of the Negotiable Instruments Act (hereinafter referred to as “the NI Act”)

2. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the NI Act, alleging that the petitioner borrowed a sum of Rs.6,00,000/- on 30.08.2019. Towards repayment of the said amount, the petitioner issued cheque for the said sum. It was presented for collection and the same was returned dishonour with an endorsement “account closed”. Thereafter, the respondent issued statutory notice and lodged the present complaint.

3. In order to prove the charge, the respondent examined as P.W.1 and marked documents in Ex.P.1 to Ex.P.4. On the side of the petitioner, no one was examined and no document was marked. On perusal of oral and documentary evidences, the trial Court convicted the petitioner for the offence punishable under Section 138 of the NI Act and sentenced him to undergo six months simple imprisonment and also awarded compensation to the tune of



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cheque amount. Aggrieved by the same, the petitioner filed an appeal and the same was also dismissed by confirming the conviction and sentence imposed by the trial Court.

4. The learned counsel appearing for petitioner submitted that the respondent failed to discharge his initial burden to prove the case under Section 138 of the NI Act. Except the cheque no document has been marked to prove the consideration passed under the cheque. Even then both the Courts convicted the petitioner under Section 138 of the NI Act. The specific defence of the petitioner is that a sum of Rs.2,00,000/- was borrowed by the petitioner on two occasions by Rs.1,00,000/- each and also returned a sum of Rs.2,00,000/- . At the time of borrowal of Rs.1,00,000/-, Ex.P.1 was issued as security purpose. Now after repayment of the entire loan amount, the cheque was misused by the respondent.

5. Per contra, the learned counsel appearing for the respondent submitted that the petitioner did not deny his signature and issuance of cheque. Therefore, the respondent discharged his initial burden as contemplated under Section 138 of NI Act. However, the petitioner failed to rebut the same by issuance of reply notice or by let in evidence. Therefore, both the Court rightly



convicted the petitioner and it doesn't require any interference from this Court.

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6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. Admittedly after receipt of the statutory notice, the petitioner did not cause any reply notice to rebut the presumption under Sections 118 & 139 of the NI Act. Though the petitioner suggested in the cross-examination of P.W.1 that he borrowed only a sum of Rs.1,00,000/- on two occasions and the same was repaid with interest and at the time of borrowal, the alleged cheque viz., Ex.P.1 was issued for security purpose. However, after repayment of entire loan amount, the respondent failed to return the same. Those contentions were not substantiated by the petitioner by oral or documentary evidence before the trial Court. Therefore, the petitioner failed to rebut the presumption before the trial Court.

8. That apart, the cheque returned dishonour for the reason that the account itself was closed. After closing the account, the petitioner issued Ex.P.1 in order to repay the loan amount. Further the petitioner did not deny his signature in the cheque and issuance of the same. Hence, the respondent proved



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the case beyond any doubt and the trial Court as well as the appellate Court
WEB CRI rightly convicted the petitioner and it doesn't require any interference from this
Court.

9. Accordingly, this Criminal Revision Case stands dismissed.

16.06.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order

rts

To

1.The Special Judge,
Special Court for Trial of
cases registered under
SC/ST (POA) Act,
Namakkal

2.The Judicial Magistrate,
(Fast Track Court)
Trichengode.



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G.K.ILANTHIRAIYAN. J,

rts

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