



Crl.R.C.No.1077 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1077 of 2022

Chakravarthy

... Petitioner

Vs.

Jayaprakash

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. to set aside the order passed by the learned III Additional Sessions Judge, Villupuram at Kallakurichi in C.A.No.23 of 2019 dated 25.03.2021 by confirming the order passed by the learned Judicial Magistrate FTC Level, Kallakurichi in C.C.No.45 of 2013 convicting the petitioner on 15.02.2019.

For Petitioner : Mr.Vikram Kumar
Legal Aid Counsel

For Respondent : Mr.K.Prabakar



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ORDER

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The petitioner, who is an accused in a case filed by the defacto complainant under Section 138 of Negotiable Instruments Act (hereinafter referred to as “NI Act”) in C.C.No.45 of 2013 was convicted by the Trial Court by judgment dated 15.02.2019 and sentenced to undergo one year simple imprisonment and to pay a sum of Rs.10,00,000/- to the complainant as compensation. Aggrieved against the same, the petitioner preferred an appeal before the Sessions Court in C.A.No.23 of 2019. The learned III Additional Sessions Judge, Kallakurichi by judgment dated 25.03.2021 dismissed the appeal and confirmed the conviction of the Trial Court. Against which, the present revision petition filed.

2.Today, the respondent/complainant is present through video conferencing and his identity is not disputed. Since there was no representation on behalf of the petitioner, this Court appointed Mr.Vikram Kumar, learned counsel as legal aid counsel on 03.11.2025.

3.The case of the complainant is that the accused borrowed a sum of



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Rs.6,00,000/- and Rs.4,00,000/-, in total, Rs.10,00,000/- from the complainant by way of two cheques dated 02.06.2010 to meet his personal and business requirement. Thereafter, the accused failed to repay the amount received from the complainant. Finally, the accused in discharge of his liability issued a cheque dated 07.08.2012 bearing No.317362 drawn on Lakshmi Vilas Bank, Kallakurichi for a sum of Rs.10,00,000/- in favour of the complainant. When the complainant presented the cheque for encashment on 13.08.2012, the same was returned with an endorsement “Exceeds Arrangement”. Thereafter, the complainant sent a statutory notice to the accused on 21.08.2012 and the same was received by the accused on 24.08.2012. The accused sent a reply with false averments on 29.08.2012. Ignoring the same, the complainant filed a complaint, examined himself as P.W.1 and three others, namely, Pandian, Balasundaram and Srinath Kumar as P.W.2 to P.W.4 and marked ten documents Ex.P1 to Ex.P10. On the side of the accused, Srinath kumar was examined as D.W.1 and marked two documents Ex.D1 and Ex.D2. On conclusion of trial, the Trial Court convicted the petitioner. Aggrieved the same, the petitioner preferred an appeal and the Lower Appellate Court dismissed the appeal by confirming



the conviction imposed by the Trial Court.

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4.The contention of the learned counsel for the petitioner is that the complainant in this case though states that he had given a loan of Rs.10,00,000/- but there is no materials to show as to how he mobilized such a huge amount. Though the complainant claims that the amounts were paid through cheque, the corresponding documents not produced. Further the complainant has not shown the lending of Rs.10,00,000/- in his income tax returns and there is no other document to show that the complainant had means to pay. When the same has been dislodged, it is for the complainant to prove that he had enough source of money to give loan of Rs.10,00,000/-. On the contrary, the Trial Court found that the petitioner/accused not denied the issuance of cheque and his signature in the cheque, hence Sections 118 and 139 of NI Act comes into play and no defence probabilized by the accused and hence convicted him which is contrary to the materials and evidence available in the case.

5.The learned counsel for the respondent/complainant strongly



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opposed the contention of the petitioner and submitted that in this case Ex.P9 and Ex.P10 are the cheques which were issued by the complainant at the time of giving loan to the accused and these two cheques were encashed which was proved by examining the bank witness. The petitioner/accused received Rs.10,00,000/- and thereafter in discharge of his liability Ex.P1/cheque issued. The petitioner received the statutory notice, not denied the issuance of cheque and his signature but with his false averments sent a reply. Thereafter, complaint filed by the complainant, examined four witnesses and marked ten documents and proved that the accused issued Ex.P1/cheque for discharge of his liability. Though the accused examined the bank witness as D.W.1 and marked two documents/Ex.D1 and Ex.D2 but he was unable to probabalize his defence and the Trial Court rightly convicted the petitioner/accused which was confirmed by the Lower Appellate Court. He further submitted that in this case, the complainant filed a civil suit against the petitioner in O.S.nNo.109 of 2013 and the suit was decreed in favour of the complainant. Thereafter, he filed an Execution Petition in E.P.No.47 of 2021 and in the Execution Petition, the payment of Rs.10,00,000/- by the petitioner is recorded and the Execution Petition was



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closed. The petitioner/accused paid the cheque amount in the civil proceedings and discharged his liability. He fairly submitted that the petitioner has got no liability.

6.Now the only apprehension of the respondent/complainant is that the petitioner having muscle power is threatening often and demanding repayment of Rs.10,00,000/- by stating that he is ready to go to Prison and serve one year period of imprisonment. The respondent's grievance is that it was a civil transaction, an agreement for sale executed and it could not be completed which was given a criminal colour.

7.Be that as it may, it is seen that the complainant fairly submitted that the cheque amount of Rs.10,00,000/- was paid by the petitioner and the liability to Ex.P1 was discharged and the same is recorded by the Civil Court in E.P.No.47 of 2021 in O.S.No.109 of 2013. The complainant produced a receipt dated 01.10.2022 confirming the payment of Rs.10,00,000/- on various dates and in the receipt for the last payment of Rs.2,00,000/- the case in C.C.No.45 of 2013 has been referred. Hence, it is



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confirmed that the liability to Ex.P1 discharged and the petitioner/accused has paid the entire cheque amount.

8.Recording the same, the judgment dated 25.03.2021 made in C.A.No.23 of 2019 on the file of the learned III Additional Sessions Judge, Villupuram at Kallakurichi and the judgment dated 15.02.2019 made in C.C.No.45 of 2013 on the file of the learned Judicial Magistrate, FTC Level, Kallakurichi, are set aside. The petitioner is acquitted of all the charges levelled against him.

9.For the apprehension of the respondent/complainant that the petitioner is often threatening the complainant and his family members for which the respondent lodged a complaint to the Inspector of Police, Kallakurichi Police Station on 07.09.2022, 24.05.2023, 01.06.2023, 07.06.2023, 16.06.2023 and 19.06.2023, C.S.R.No.1040 of 2022 assigned on 08.09.2022 but the Inspector of Police not taken any action which further embolden the petitioner to further cause threat and assault the respondent/complainant. It is seen that there have been several complaints



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but no action taken by the Inspector of Police, Kallakurichi Police Station.

Hence, the Inspector of Police, Kallakurichi Police Station is directed to take action on the complaint given by the respondent, if found to be true and take necessary action against the offender.

10.In the result, the Criminal Revision Petition stands allowed with the above direction.

18.11.2025

Index:Yes/No
Speaking Order/Non-Speaking Order
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To

- 1.The III Additional Sessions Judge,
Villupuram at Kallakurichi.
- 2.The Judicial Magistrate,
FTC Level,
Kallakurichi
- 3.The Inspector of Police,
Kallakurichi Police Station



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M.NIRMAL KUMAR, J.

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