



WEB COPY



Crl.RC.No.64 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2025

CORAM:

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

Crl.RC.No.64 of 2023

R.Arumugam

Versus

... Petitioner

D.Thangaraju

...

Respondent

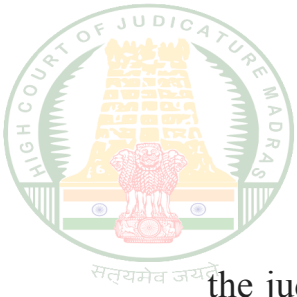
PRAYER: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, praying to call for the records on the file of the III Additional District and Sessions Judge, Coimbatore in Crl.A.No.335 of 2019 dated 18.04.2022 confirming the judgment and sentence passed in CC.No.885 of 2017 on the file of the Judicial Magistrate(Fast Track Court-II), Coimbatore dated 16.09.2019 and set aside the same by allowing the above criminal revision case.

For Petitioner : Ms.U.Ramya
for Mr.R.Bharath Kumar

For Respondent : No appearance

ORDER

This criminal revision case has been filed against the order dated 18.04.2022 passed in Crl.A.No.335 of 2019 on the file of the III Additional District and Sessions Judge, Coimbatore, thereby confirming



Crl.RC.No.64 of 2023

WEB COPY

the judgment dated 16.09.2019 passed in CC.No.885 of 2017 on the file of the Judicial Magistrate(Fast Track Court-II), Coimbatore, thereby the petitioner was convicted for the offence punishable under Section 138 of NI Act.

2. The case of the respondent is that the petitioner was acquainted with him, who borrowed a sum of Rs.1,50,000/- on 18.02.2017 for urgent expenses and also had executed a promissory note. Accordingly, the petitioner agreed to repay the loan amount within a period of six months with interest at the rate of 18% per annum. However, the petitioner did not pay any interest and failed to settle the amount. After repeated demand made by the respondent, the petitioner had issued a cheque for a sum of Rs.1,50,000/- to settle the principle amount with promise to repay the interest shortly. The said cheque was presented for collection. However, it was returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, the respondent filed complaint.

3. On the side of the complainant, he had examined PW1 and marked Ex.P1 to P6. On the side of the petitioner, no one was examined



Crl.RC.No.64 of 2023

WEB COPY

and no documents were marked. On perusal of oral and documentary evidences, the trial court found the petitioner guilty for the offence punishable under Section 138 of NI Act and sentenced him to undergo 6 months simple imprisonment and also awarded compensation of Rs.1,50,000/-. Aggrieved by the same, the petitioner preferred appeal and the same was dismissed and the judgment of conviction and sentence imposed on the petitioner was confirmed.

4. The learned counsel for the petitioner would submit that in order to rebut the presumption, the petitioner caused reply notice stating that he borrowed only a sum of Rs.50,000/- from the respondent and at the time of borrowal of loan amount, he executed a pronote as well as issued a cheque. After repayment of the entire loan amount, the respondent misused the cheque and the pronote and filed the present complaint. Further, the respondent had no source of income to lend a sum of Rs.1,50,000/-. It was categorically elucidated from the cross examination of PW1. In fact the respondent's son was studying in a college at the time of the alleged borrowal and as such, the respondent could not have lent a sum of Rs.1,50,000/-.



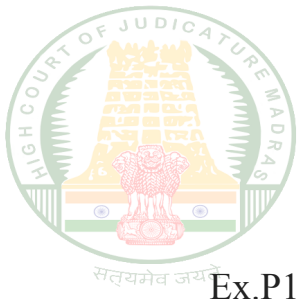
Crl.RC.No.64 of 2023

WEB COPY

5. Though notice was served and name has been printed in the cause list, today no one appeared on behalf of the respondent before this Court either in person or through pleader.

6. Heard, the learned counsel for the petitioner and perused, all the materials placed before this Court.

7. On receipt of the statutory notice, the petitioner issued a reply notice and the same was marked as Ex.P6. On perusal of the reply notice, it is revealed that the petitioner had borrowed only a sum of Rs.50,000/-, which was thereafter repaid with interest. However, the petitioner failed to get back the documents which were executed at the time of borrowal of the loan. Except the reply notice and the cross examination of PW1, the petitioner, in order to substantiate the said contention, did not produce any material evidence. Mere reply notice and the cross examination would not amount to rebuttal of presumption as arose under Sections 118 and 139 of NI Act. In fact, the petitioner admitted the fact that he borrowed a sum of Rs.50,000/-. On perusal of



Crl.RC.No.64 of 2023

WEB COPY

Ex.P1, it is revealed that the respondent had lent a sum of Rs.1,50,000/- and the petitioner executed a pronote . The petitioner did not deny the signature and the execution of the pronote. Only contention raised by the petitioner is that after repayment of the entire loan amount, the petitioner did not take any step to get back his pronote and the cheque which were allegedly executed by the petitioner for security purpose. Therefore, the trial court rightly convicted the petitioner and the appellate court rightly confirmed the conviction and sentence imposed on the petitioner.

8. At this juncture, the learned counsel for the petitioner would submit that the trial court also ordered to pay compensation to the tune of the cheque amount. Therefore, he prayed to reduce the sentence imposed on the petitioner.

9. Considering the above facts and circumstances, this court finds no infirmity or illegality in the impugned judgments and as such, this criminal revision case is liable to be dismissed. However, this court is inclined to modify only the sentence of imprisonment imposed by the trial court.



Crl.RC.No.64 of 2023

WEB COPY

10. Accordingly the judgment dated 18.04.2022 passed in Crl.A.No.335 of 2019 on the file of the III Additional District and Sessions Judge, Coimbatore confirming the judgment dated 16.09.2019 passed in CC.No.885 of 2017 on the file of the Judicial Magistrate(Fast Track Court-II), Coimbatore, is modified as follows:

- (i) The conviction rendered for the offences under Section 138 of NI Act is confirmed.
- (ii) The sentence of simple imprisonment imposed by the trial court is reduced from six months to three months.
- (iii) The others orders passed by the courts below shall remain intact.

11. In view of the above, this criminal revision case stands partly allowed.

09.06.2025

Neutral citation:Yes/No
Index:Yes/No
Speaking/Non speaking order
lok



WEB COPY



Crl.RC.No.64 of 2023

G.K.ILANTHIRAIYAN. J,

lok

To

- 1.The III Additional District and Sessions Judge,
Coimbatore
- 2.The Judicial Magistrate(Fast Track Court-II),
Coimbatore

Page 7 of 8



WEB COPY



Crl.RC.No.64 of 2023

Crl.RC.No.64 of 2023

09.06.2025