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Crl.R.C. No. 1665 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2025

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.R.C. No. 1665 of 2023

T.K.P. Ashokan
S/o. Periyakaruppan,
A.V. Medicals,
2 Flat, Ashoka House,
No.1, Vaikkam Veeram Street,
East Tambaram,
Chennai – 600 059.

..Petitioner

Vs.

K.P.S. Palanisamy,
S/o. Selathan,
No.34, Chavadi Street,
Pallavaram,
Chennai – 600 043.

..Respondent

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. to call for the records and set aside the order passed in C.A. No. 1 of 2022 on the file of Principal District and Sessions Court, Kancheepuram District at Chengalpattu dated 31.03.2023 confirming the order of the Trial Court in S.T.C. No. 663 of 2017 on the file of the Court of Judicial Magistrate No.II, Tambaram dated 09.11.2021.



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For Petitioner :: Mr.V. Chinnasamy

For Respondent :: No appearance

O R D E R

This criminal revision petition has been filed challenging the judgment of conviction and sentence imposed on the petitioner for the offence under Section 138 of Negotiable Instruments Act by the Trial Court, which was confirmed by the Appellate Court.

2. It is the case of the respondent that the petitioner was liable to to pay a sum of Rs.7 lakhs to the respondent; that towards discharge of that liability, the petitioner had issued three cheques, one for a sum of Rs.5,10,000/-; the second one for a sum of Rs. 25,000/- and the third one for a sum of Rs. 25,000/-; that the said cheques, when presented for collection, were returned for the reason 'Account closed' (in respect of cheques drawn for a sum of Rs.5,10,000/- on ICICI Bank) and 'contact drawer' (in respect of two cheques for Rs.25,000/- each drawn on Indian Bank); that in spite of statutory notice, the petitioner did not make any attempt and thus, committed the aforesaid offence.



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3. The Trial Court found that the first cheque (Ex.P1) was

issued by a Firm by name M/s. A.V. Medicals for Rs.5,10,000/-; that the respondent had not filed any complaint against the said firm; and that therefore, the complaint against the petitioner was not maintainable. However, the Trial Court, on the basis of Exs.P2 nd P3, which were cheques issued for Rs.25,000/- each by the petitioner, found that the petitioner was liable to pay the said cheque amounts and since the petitioner had not paid the cheque amounts, the petitioner is guilty of the offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo six months simple imprisonment and to pay compensation of Rs.50,000/-. The Appellate Court, on appeal, confirmed the conviction and sentence imposed on the petitioner by the Trial Court.

4. Though the notice sent by this Court had been served, the respondent had chosen not to enter appearance. This Court, in its earlier order dated 14.11.2025, had directed the notice to be served through the jurisdictional police. The Police had reported on 26.11.2025 that the respondent is not available in the address.



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5. Considering the fact that the respondent has not entered appearance in spite of service of notice issued by this Court and could not be traced even by the jurisdictional Police, this Court is inclined to take up the case on merits.

6. As could be seen from the judgment of the Trial Court, the petitioner has admitted his liability to pay the amounts covered by the two cheques, which were marked as Exs.P2 and P3, totalling to Rs.50,000/-. The petitioner was unable to rebut the statutory presumption under Section 139 of Negotiable Instruments Act. In respect of the other cheque, namely, Ex.P1, it appears that the respondent has not challenged the finding. The learned counsel for the petitioner is unable to point out any infirmity in the finding of guilt in respect of the offence under Section 138 of Negotiable Instruments Act vis-a-vis the cheques marked as Exs.P2 and P3. Therefore, this Court finds no reason to set aside the impugned judgments finding the petitioner guilty of the offence under Section 138 of Negotiable Instruments Act.



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7. However, considering the facts and circumstances of the case, this Court is inclined to modify the sentence. Accordingly, the sentence imposed by the Courts below is set aside. The petitioner is, instead, sentenced to pay a fine of Rs.75,000/- within a period of four weeks from the date of receipt of a copy of this order and in default, to undergo simple imprisonment for a period of 3 months.

8. It is reported by the learned counsel for the petitioner that the petitioner had already deposited a sum of Rs.25,000/- before the Trial Court. Therefore, the petitioner shall deposit the balance fine amount of Rs.50,000/- as aforesaid. The money already deposited by the petitioner shall be appropriated towards the fine. A part of the fine amount (i.e.) Rs.70,000/- shall be paid as compensation to the respondent.

9. With the above modification, the criminal revision petition stands disposed of.

05.12.2025

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-speaking Order
Neutral Citation: Yes/No



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SUNDER MOHAN,J.

nv

To

1. The Principal District and Sessions Court,
Kancheepuram.
2. The Judicial Magistrate Court No.II,
Tambaram.

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