



CrI.R.C.No.1138 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.04.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.1138 of 2021

and

CrI.M.P.No.7312 of 2025

S.Palanisamy

... Petitioner

Versus

M.Vasanthi

... Respondent

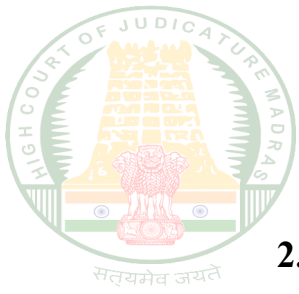
PRAYER: Criminal Revision is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records passed a judgment in CrI.A.No.117 of 2021 dated 15.11.2021 by the learned III Additional District and Sessions Judge, Erode at Gobichettipalayam and confirmed conviction and sentence passed by learned IV Judicial Magistrate No.1, Gobichettipalayam in S.T.C.No.20 of 2016 dated 07.11.2020 and the learned Magistrate passed a conviction and sentence and set aside.

For Petitioner : Mr.M.Muthukrishnan

For Respondent : Mr.S.P.Yuvaraj

ORDER

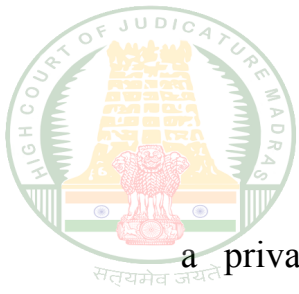
This Criminal Revision Case is filed challenging the judgment of the Courts below convicting the revision petitioner for the offence under Section 138 of Negotiable Instruments Act.



2. The petitioner/accused in S.T.C.No.20 of 2016 filed under Section 138 of Negotiable Instrument Act by the respondent, was convicted by the trial Court by judgment dated 07.11.2020. He was sentenced to undergo 6 months Simple Imprisonment and directed to pay a sum of Rs.5,00,000/- as compensation.

3. Aggrieved by the said judgment, the petitioner preferred an appeal before the Sessions Court in Crl.A.No.117 of 2021. The Sessions Judge, by judgment dated 15.11.2021, dismissed the appeal and confirmed the conviction and sentence passed by the trial Court. Hence, the present revision petition has been filed.

4. The case of the complainant is that the petitioner/accused and the respondent/complainant are relatives. On 04.10.2015, the petitioner borrowed a sum of Rs.5,00,000/- from the complainant for the purpose of expanding his business. On the same day, he issued a cheque bearing No.863671, drawn on IndusInd Bank, Avinashi branch, in favour of the complainant. When the cheque was presented for collection, it was returned unpaid with a memo dated 09.11.2015 stating "Funds Insufficient". After issuing a statutory notice to the accused, which was served on him on 14.11.2015, the complainant filed



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a private complaint before the learned IV Judicial Magistrate No.1, Gobichettipalayam in S.T.C.No.20 of 2016.

5. During the trial, the complainant examined herself as PW.1 and marked six (6) exhibits as Ex.P1 to Ex.P6. In defence, the accused examined himself as DW.1 and three other witnesses as DW.2 to DW.4 and marked twelve (12) exhibits as Ex.D1 to Ex.D12.

6. The primary contention of the petitioner is that the parties are relatives and that certain amount was received for the business purpose, which had been repaid in part. The petitioner suffered business losses and pleaded with the relative to waive the remaining amount and settle the matter amicably and also to give credit to the earlier part payments, which was refused. This formed the basis of the defence case. The petitioner examined witnesses and marked documents during the defence examination, which was considered by the Court.

7. This Court after giving anxious consideration to the above submissions made by the learned counsel for the revision petitioner, finds that the petitioner and the respondent are relatives and known to each other. For the



business purposes, the petitioner had approached the respondent and sought a hand loan of Rs.5,00,000/-, which was subsequently repaid. Thereafter, in discharge of earlier loan, a cheque for Rs.5,00,000/- was issued, which on presentation was dishonoured. Though the respondent had promised to repay the cheque amount, he kept delaying the payment. Thereafter, the complaint has been filed. During the trial, the complainant was examined as PW.1 and documents were marked in support of his contention. The complainant withdrew from cross examining the petitioner/accused and as a result, the petitioner could not produce further evidence. The trial Court, after considering the evidence, rightly convicted the petitioner and the same was confirmed by the lower appellate Court.

8. Be that as it may, the petitioner and the respondent, being relatives, have, over the passage of time and through mutual intervention, come to an understanding. The respondent/complainant has acknowledged that the financial condition of the petitioner is poor and considering their past relationship, has agreed to receive a sum of Rs.4,00,000/- by way of demand draft dated 05.04.2025, drawn on IndusInd bank, Gobichettipalayam, bearing No.36849 in favour of the respondent as full and final compensation, thereby giving a quietus to the dispute. The respondent has accepted the said amount



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and acknowledged its receipt.

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9. Both the parties and their respective counsels are present today and agreed to compound the offence on receipt of the aforesaid cheque. Accordingly, the cheque has been handed over to the the complainant. In the light of the above settlement, the conviction of the petitioner by the trial Court, as confirmed by the lower appellate Court is hereby set aside. The offence is thus compounded.

10. Recording the compounding, this Criminal Revision Case is allowed. Consequently, the connected Criminal Miscellaneous Petitions is also ordered.

09.04.2025

Speaking order/Non-speaking order

Index: Yes/No

Internet: Yes/No

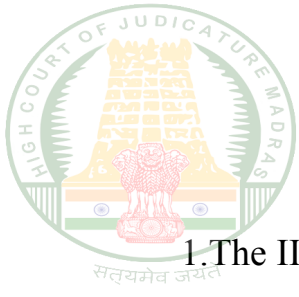
Neutral Citation: Yes/No

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M.NIRMAL KUMAR, J.

rpl

To



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1.The III Additional District and Sessions Judge, Erode at Gobichettipalayam

2.The IV Judicial Magistrate No.1, Gobichettipalayam

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