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Crl.RC.No.1715 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.1715 of 2023 and

Crl.M.P.No.7038 of 2025

A.S.Chandrasekar @ Chandru

S/o.Seethapathy

... Petitioner

Vs.

A.L.Sivakumar (Died)

S.Sudha

W/o.Late A.L.Sivakumar

Old No.03, New No.05

Nathamuni Street, Thoopukaana

Arcot, Vellore District – 632 503

(Amended as per order in C.M.P.No.2 of 21

dated 06.03.2021)

... Respondent

Prayer: Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. to set aside the judgment dated 26.06.2023 made in C.A. No.62 of 2020 on the file of the II Additional District and Sessions Judge, Vellore at Ranipet confirming the judgment dated 07.01.2020 made in S.T.C.No.307 of 2017 on the file of the District Munsif-cum-Judicial Magistrate Court, Arcot.



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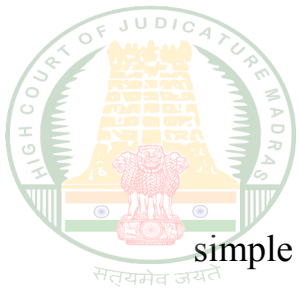
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For Petitioners : Mr.R.Thirumoorthy
For Respondent : M/s.Sadhananthan

ORDER

This Criminal Revision Case has been filed by the petitioner to set aside the judgment dated 26.06.2023 made in C.A. No.62 of 2020 on the file of the II Additional District and Sessions Judge, Vellore at Ranipet confirming the judgment dated 07.01.2020 made in S.T.C.No.307 of 2017 on the file of the District Munsif-cum-Judicial Magistrate Court, Arcot.

2. The case of the petitioner is that the original complainant namely A.L.Sivakumar had filed a complaint against the petitioner under Section 200 Cr.P.C. and 138 of Negotiable Instruments Act in S.T.C.No.307 of 2017 on the file of the District Munsif-cum-Judicial Magistrate Court, Arcot. The trial Court, after enquiry, found the guilt of the petitioner and convicted and sentenced him to undergo one year simple imprisonment and to pay fine of Rs.2,000/- and in default of payment of fine amount, to undergo two months



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simple imprisonment. Aggrieved by the judgment of conviction and sentence, the petitioner filed appeal before the II Additional District and Sessions Judge, Vellore at Ranipet in C.A. No.62 of 2020 and during pendency of the appeal, the original complainant died and thereby, the wife of the complainant namely S.Sudha was impleaded as respondent as per amendment order in C.M.P.No.2 of 2021 dated 06.03.2021. But the said appeal was also dismissed by judgment dated 26.06.2023. Hence, challenging the same, the petitioner has filed the present revision.

3. The case of the respondent/complainant is that the petitioner had borrowed a sum of Rs.5 lakhs for his family and business commitments and for repayment, the petitioner had issued a cheque bearing No.634313 drawn on State Bank of India, Arcot Branch. Thereafter, when the complainant presented the cheque with his banker viz., State Bank of India, Arcot Branch on 27.01.2017, the said cheque was returned on the same day since both the petitioner and the respondent's bank is one and the same, with an endorsement



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"funds insufficient". Thereafter, the complainant issued a legal notice to the

petitioner on 30.01.2017. Though the petitioner received the legal notice, he neither sent any reply nor repaid the money. Hence, the complainant filed a complaint under Section the 138 of Negotiable Instruments Act in S.T.C.No.307 of 2017 before the District Munsif-cum-Judicial Magistrate Court, Arcot. The complainant substantiated his complaint by oral and documentary evidence and thereby, the trial Court convicted the petitioner under Section 138 of the Negotiable Instruments Act and the appellate Court also rightly re-appreciated the evidence the confirmed the judgement of conviction and sentence. Therefore, there is no merits in this revision.

4. The learned counsel for the petitioner submitted that the trial Court failed to consider that the cheque was not issued for legally enforceable debt and that the complainant has not produced any evidence for payment Rs.5 lakhs to the petitioner. However, he submitted that the sentence of imprisonment may be altered to payment of compensation and that the



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petitioner is ready to pay the cheque amount.

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5. Heard both sides and perused the materials available on record.

6. It is seen from the records that in order to substantiate his complaint, the original complainant examined himself as P.W.1 and the Bank Manager, State Bank of India was examined as P.W.2 and 5 documents were marked as Ex.P.1 to Ex.P.5 viz., the cheque was marked as Ex.P.1, the bank return memo was marked as Ex.P.2, the statutory notice sent to the petitioner through Advocate was marked as Ex.P.3, the acknowledgement card for receipt of statutory notice by the petitioner was marked as Ex.P.4 and the bank statement of the petitioner for the period between 10.11.2016 to 27.01.2017 was marked as Ex.P.5.

7. However, on the side of the petitioner, no oral or documentary evidence was produced to refute the evidence adduced by the complainant and prove his case that the signature found in the cheque is not that of him. Further, despite the receipt of statutory notice, the petitioner neither sent reply nor



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repaid the money to the respondent. Since the petitioner did not lead any

evidence to rebut the legal presumption arose in favour of the complainant, the trial Court rightly convicted the petitioner and the appellate Court also, as a fact finding Court by re-appreciating the entire evidence, confirmed the judgment of conviction and sentence imposed by the trial Court.

8. As a revision Court, this Court cannot sit in the arm chair of the appellate Court and re-appreciate/re-visit the entire evidence and unless contrary is proved, the revision Court cannot interfere with the judgment of the Courts below.

9. In this case, a perusal of the records shows that there is a civil transaction between the accused and the complainant. Section 138 of the Negotiable Instruments Act says that "if a cheque is dishonored due to insufficient funds or exceeding the agreed limit, the drawer can be punished with imprisonment or a fine, or both.

10. Since the petitioner himself is ready to pay the cheque amount as



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compensation to the respondent, this Court is of the opinion that imposition of compensation would meet the ends of justice.

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11. Therefore, the sentence of imprisonment alone imposed by the trial Court and confirmed by the appellate Court is modified into payment of compensation of cheque amount i.e. Rs.5 lakhs to the respondent herein who is the legal representative of the deceased/original complainant.

12. It is seen that already the petitioner has deposited 50% of the cheque amount i.e. Rs.2,50,000/- to the District Munsif-cum-Judicial Magistrate Court, Arcot, on 15.04.2025 as per the directions of this Court. Today (21.04.2025), the learned counsel for the the petitioner handed over a demand draft for a sum of Rs.2,50,000/- (bearing D.D.No.079784 drawn at Federal Bank, Ranipet Branch) to the learned counsel for the respondent towards balance compensation amount.

13. Therefore, the petitioner is directed to be set free and the imprisonment already undergone by the petitioner shall be treated as



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punishment.

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14. The respondent is at liberty to withdraw the amount of Rs.2,50,000/- already deposited by the petitioner before the Court below.

15. With the above modification and directions, this Criminal Revision Case is disposed of. Consequently, the connected Miscellaneous Petition is closed.

21.04.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

ksa-2

Note: Issue order copy on 22.04.2025.



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To

1. The II Additional District and Sessions Judge,
Vellore

2. The District Munsif-cum-Judicial Magistrate Court,
Arcot.

Copy to:

The Superintendent of Prison
Central Prison, Vellore.



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P.VELMURUGAN. J.

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