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Crl.RC.No.1723 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2025

CORAM:

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

Crl.RC.No.1723 of 2023

M.Kalisamy ... Petitioner
Versus
M.A.Lourduraj(died)
L.Premala
(As per CMP No.4138/2021 dated 04.12.2021) ... Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C., praying to set aside the judgment passed in CA.No.160 of 2012 dated 24.01.2023 on the file of III Additional District and Sessions Judge, Coimbatore confirming the sentence imposed in the judgment dated 15.05.2012 in C.C.No.259 of 2011 on the file of Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore and to allow the criminal revision.

For Petitioner : Mr.R.Nalliyappan

For Respondent : No appearance

ORDER

This criminal revision case has been preferred against the judgment passed in CA.No.160 of 2022 on the file of the III District



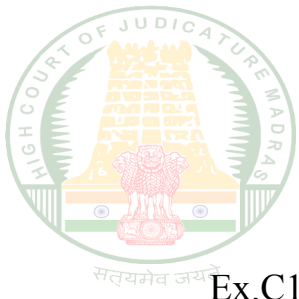
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Sessions Court, Coimbatore dated 24.01.2023, thereby confirming the order of conviction and sentence imposed by the trial court in CC.No.259 of 2011 dated 15.05.2012 on the file of the Judicial Magistrate, Fast Track at Magistrate Level, Coimbatore for the offence punishable under Section 138 of NI Act.

2. The petitioner is the accused in the complaint lodged by the respondent for the offence punishable under Section 138 of NI Act alleging that the petitioner borrowed a sum of Rs.1,50,000/- on 01.07.2009 with interest at Rs.2,600/- per month. In order to repay the said amount, the petitioner issued two cheques and both were presented for collection. However, both were returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, the respondent filed complaint and the trial court had taken cognizance of the same.

3. Before the trial court, the respondent had examined PW1 and marked Ex.P1 to Ex.P6. On the side of the petitioner, he did not examine any witness and only he marked Ex.D1. The court marked



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Ex.C1. 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 six months simple imprisonment and imposed fine of Rs.2,000/-, in default to undergo two months simple imprisonment. Aggrieved, by the same, the petitioner preferred appeal and the same was dismissed and the conviction and sentence imposed by the trial court was upheld by the appellate court. Hence, the present criminal revision case has been filed.

4. The learned counsel for the petitioner would submit that pending this criminal revision case, the petitioner had paid the entire cheque amount and the same was also duly received by one, Venugopal, the power of attorney of the respondent.

5. In view of the above, the impugned judgments cannot be sustained and the same are liable to be set aside. Accordingly, the judgment passed in CA.No.160 of 2022 on the file of the III District Sessions Court, Coimbatore dated 24.01.2023 and the judgment passed



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in CC.No.259 of 2011 dated 15.05.2012 on the file of the Judicial
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Magistrate, Fast Track at Magistrate Level, Coimbatore are set aside.

6. In the result, this criminal revision case stands allowed.

01.07.2025

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

- 1.The III Additional District and Sessions Judge, Coimbatore
- 2.The Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore



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G.K.ILANTHIRAIYAN. J,

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