



Crl.R.C.No.317 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 16.06.2025

CORAM:

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

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R.Boopathi

... Petitioner

Vs.

P.Venkatesan

... Respondent

PRAYER: Criminal Revision has been filed under Section 397 r/w 401 of Cr.P.C., praying to set aside the judgment and conviction dated 16.04.2021 made in C.A.No.10 of 2020 on the file of the learned Principal Session Judge at Salem, confirming the judgment and conviction dated 30.12.2019 made in S.T.C.No.1115 of 2015 on the file of the Judicial Magistrate No.I, Sankari.

For Petitioner : Mr.T.Muruganantham

For Respondent : Mr.C.Kulanthaivel

ORDER

This Criminal Revision has been preferred against the judgment dated 16.04.2021, passed by the learned Principal Session Judge, Salem, in C.A.No.10 of 2020, confirming the conviction and sentence imposed on the petitioner dated 30.12.2019 passed by the learned Judicial Magistrate No.I, Sankari, in S.T.C.No.1115 of 2015, for the offences punishable under Section 138 of the Negotiable Instruments Act (hereinafter referred to as “the NI Act”)

2. The petitioner is an accused in the complaint lodged by the



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respondent for the offence punishable under Section 138 of the NI Act, alleging that on 10.01.2015, the petitioner had borrowed a sum of Rs.5,00,000/- as hand loan for his urgent business and family expenses and on the same day, he issued a postdated cheque for the said sum. In instructions, the cheque was presented for collection. However, it was returned dishonour for the reason “fund insufficient”. After issuance of statutory notice, the respondent lodged complaint and the same has been taken cognizance in S.T.C.No.1115 of 2015 on the file of the learned Judicial Magistrate No.I, Sankari.

3. On the side of the respondent, he himself examined as P.W.1 and marked documents in Ex.P.1 to Ex.P.5. On the side of the petitioner, no one was examined and no document was marked. On perusal of oral and documentary evidence, the trial Court convicted the petitioner for the offences punishable under Section 138 of the NI Act and sentenced him to undergo six months simple imprisonment and also awarded compensation to the tune of cheque amount. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed by confirming the order passed by the trial Court. Hence the present revision.

4. The learned counsel appearing for the petitioner submitted that the



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respondent failed to prove the consideration which was passed under the alleged cheque. Therefore, the cheque was not issued for legally enforceable debt. It was issued as security for receiving a sum of Rs.5,000/- and Rs.10,000/- for diesel for his Tractor. The petitioner also specifically put up a suggestion during the cross examination of P.W.1. Therefore, the petitioner rebutted the presumption and even then the respondent failed to prove his case beyond any doubt. Even then the trial Court as well as the trial Court convicted the petitioner for the offence punishable under Section 138 of the NI Act.

5. Per contra, the learned counsel appearing for the respondent submitted that the petitioner did not deny his signature and issuance of cheque. Therefore, the respondent discharged his initial burden as contemplated under Section 138 of NI Act. However, the petitioner failed to rebut the by issuance of reply notice or by let in any evidence. Therefore, both the Court rightly convicted the petitioner and it doesn't require any interference from this Court.

6. Heard the learned counsel appearing on either side and perused the



materials placed before this Court.

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7. The petitioner borrowed a sum of Rs.5,00,000/- by issuance of postdated cheque. The cheque was marked as Ex.P.1. On instructions, it was presented for collection and the same was dishonoured for the reason “fund insufficient”. The respondent caused legal notice and the same was marked as Ex.P.4. It was duly received by the petitioner and the proof was also marked as Ex.P.5. However, the petitioner did not reply for the statutory notice. Accordingly, the respondent discharged the initial burden of presumption that the cheque was issued for the loan borrowed by the petitioner from the respondent. The petitioner failed to rebut the presumption under Sections 118 & 139 of the NI Act, by issuance of reply notice to the notice issued by the respondent.

8. On perusal of evidence of P.W.1, it is revealed that the petitioner simply put up a suggestion as he issued cheque for security of Rs.5,000/- and Rs.10,000/- for diesel. However, it was categorically denied by the respondent. Therefore, both the Courts below rightly convicted the petitioner for the offence punishable under Section 138 of the NI Act and this Court finds no infirmity or illegality in the order passed by the Courts below.



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WEB COPY 9. Accordingly, this Criminal Revision Case stands dismissed.

16.06.2025

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

rts

To

1.The Principal Session Judge,
Salem.

2.The Judicial Magistrate No.I,
Sankari.



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G.K.ILANTHIRAIYAN. J,

rts

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