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CRL.R.C.No.335 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-07-2025

CORAM

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL.R.C.No.335 of 2023

and

Crl.M.P.No.2692 of 2023

Senthilkumar

Petitioner

Vs

Tribhovandas Venravan & Bros
Rep. by its Partner,
Nirav A.Shah,
No.3, Erimedu, Ramanathapuram,
Sungam,
Coimbatore District.

Respondent

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of the Criminal Procedure Code, to set aside the Judgment passed by the Learned Judicial Magistrate Court-VI, Coimbatore in C.C.No.107 of 2017 dated 22.11.2019 as confirmed by the Judgment of the V-Additional District and Sessions Judge, Coimbatore in C.A.No.418 of 2019 dated 25.08.2022.

For Petitioner : Mr.R.Sai Sundar
for Mr.M.N.Balakrishnan

For Respondent : Mr.Balasubramanian
for Mr.M.Selvaraghavan.

ORDER

This Revision has been preferred as against the judgment passed in



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C.A.No.418 of 2019 dated 25.08.2022 on the file of the V Additional District and Sessions Judge, Coimbatore, thereby confirmed the order of conviction and sentence imposed in C.C.No.107 of 2017 dated 22.11.2019 by the learned Judicial Magistrate - VI, Coimbatore, for the offence punishable under Section 138 of Negotiable Instruments Act.

2.The petitioner is an accused for the offence punishable under Section 138 of Negotiable Instruments Act alleging that the respondent is the whole seller of goods under the name and style of Glaxo Smith Claim Ltd. The petitioner used to purchase Horlicks and Boost on credit basis for his business in the name of Pooja Enterprises and S.S. Agencies. They had accounts. As on 30.04.2014, the petitioner was in due of Rs.7,78,000/-. In order to repay the said amount, the petitioner issued a cheque for the said amount and the same was presented for collection. However, it was returned and dishonoured for the reason "Funds Insufficient". After issuing statutory notice, the respondent lodged a complaint. The same has been taken cognizance by the trial Court.

3.On the side of the respondent/complainant, P.W.1 was examined and exhibits Ex.P1 to Ex.P10 were marked. On the side of the petitioner/accused, D.W.1 was examined and Ex.D1 was marked. On perusal of the oral and document evidence, the trial Court convicted the petitioner under Section 138



of Negotiable Instruments Act and sentenced him to undergo one year of rigorous imprisonment and also awarded compensation of the said cheque amount. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed and confirmed the order of conviction and sentence imposed by the trial Court. Hence, the present Revision Case.

4.The petitioner would submit that the cheque was not issued to the respondent and it was issued in the name of sisters concern of the respondent. Therefore, the cheque was misused by the respondent and initiated proceedings under Section 138 of Negotiable Instruments Act. He further submitted that the petitioner is having two girl child and as such prayed to reduce the sentence imposed by the trial Court and confirmed by appellant Court.

5.Heard the learned counsels on either side and perused the records.

6.On perusal of records revealed that the petitioner admittedly had purchased goods such as Horlicks and Boost on credit basis. On perusal of the statement of accounts maintained by the respondent which was marked as Ex.P9 revealed that there was due from the petitioner to the tune of Rs.7,78,000/-. In order to purchase the goods, the respondent marked the bills as Ex.P3. It also revealed that the petitioner had purchased goods from the respondent under the bills. The petitioner also did not deny the signature and



issuance of cheque. Therefore, the respondent discharged his initial burden as contemplated under Section 138 of Negotiable Instruments Act. But the petitioner failed to rebut the same by any form of evidence. Therefore, the trial Court and the appellate Court rightly convicted the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act and this Court finds no infirmity or illegality in the conviction order passed by the Courts below. However, considering the submissions made by the petitioner, this Court is inclined to reduce the sentence. Accordingly, the conviction passed by the learned Judicial Magistrate - VI, Coimbatore is hereby confirmed. The sentence of one year imposed by the trial Court and confirmed by the appellate Court is reduced to six months.

7. In view of the above, the Criminal Revision Petition is partly allowed. Consequently, connected miscellaneous petition is closed.

08-07-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

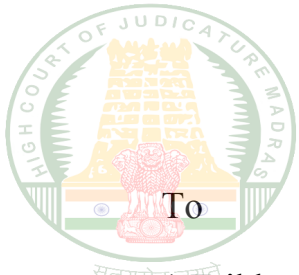
Neutral Citation: Yes/No



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To

1. Tribhovandas Venravan & Bros

Rep. by its Partner,

Nirav A. Shah,

No.3, Erimedu, Ramanathapuram,

Sungam,

Coimbatore District.

2. Judicial Magistrate - VI, Coimbatore.

3. V Additional District and Sessions

Judge, Coimbatore.



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G.K.ILANTHIRAIYAN J.

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