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CRL OP No. 25209 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-09-2025

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THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 25209 of 2025

1. R.Kumar

S/o Raju, 3/43, Anna Nagar 3rd Cross,
Chinnanandankoil, Karur-1 Now at Flat
No.1 G, Ground Floor, Hasavandana
Apt, Radha Nagar, Chrompet, Chennai-
600 044

Petitioner(s)

Vs

1. B.Sivaganesan@sivaganapathy

S/o Balasubramanian, 8th Cross Street,
CLRI Nagar, 2nd main Road,
Neaalankarai Chennai Now at No.68A,
VGP 3 rd Cross street, VGP Layout,
Palavakkam Chennai-600 041

Respondent(s)

PRAYER : Criminal Original Petition filed under section 528 of BNSS to call for the records relating to the impugned order dated 23-04-2025 of dismissal of Crl.Rc.No.74 of 2024 passed by the Learned XXI Additional Sessions Judge, City Civil Court at Allikulam Chennai and set aside the same and pass such further or other orders as deemed fit and proper and thus render justice



For Petitioner(s): R.Arumugam

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ORDER

Challenging the Order of the revisional Court rejecting the revision filed by the petition to enhance the compensation, the present Criminal Original Petition has been filed.

2. Originally a complaint has been filed under section 138 of the Negotiable Instruments Act as against dishonor of the cheque said to have been issued by the petitioner for a sum of Rs.2,30,000/-. The case of the complainant is that the accused had promised to get the loan for a sum of Rs.3,50,00,000/- and requested the complainant to pay initially a sum of Rs.3,50,000/- for facilitating arrangement of the loan and the complainant had also paid a sum of Rs.2,30,000/- and towards the said transaction a cheque had also been issued the petitioner on 10.07.2017. That apart, a promissory note has also been executed by the petitioner. When the cheque has been presented for encashment, the



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same has been dishonoured. After issuing statutory notice, a complaint came to be filed before the trial Court. The trial Court after appreciating entire evidence, convicted the accused with an imprisonment of one year along with compensation of Rs.2,42,000/-. It is stated that as against conviction, an appeal filed has also been filed and the same has been dismissed. Aggrieved over the conviction and for enhancement of compensation, revision has been preferred. However, the revision has been dismissed. Challenging the same, the present Criminal Original Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that as per Section 138 of Negotiable Instruments Act, twice the cheque amount has to be Ordered as compensation and two years imprisonment has to be imposed. Whereas, the trial Court had imposed one year imprisonment and ordered only the cheque amount towards compensation. Hence, submitted that the appellate Court as well as the revision Court had not considered entire aspects in proper manner and dismissed the appeal as well as the revision.



4. I have perused entire materials. As against revision, only when there is abuse of process of law, petition under section 482 Cr.P.C. will be maintainable.

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In this regard, it is relevant to not that in the decision of this Court in

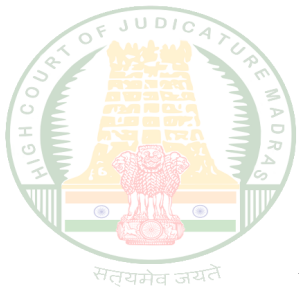
Geethadevi & Another Vs. D.I.Nathan & another in Criminal Revision Case

No.512 of 2010 and Criminal Original Petition No.23229 of 2010 , at

Paragraph Nos.16 and 17 , wherein it has been dheld as follows:-

“16.So far as the Criminal Original Petition is concerned, this Court is of the view that once the revisional provision is invoked by a party before the Sessions Court, he/she cannot again invoke the extraordinary jurisdiction of the High Court under Section 482 of Cr.P.C. In this regard, a reference could be placed in the decision reported in AIR 1997 SC 987 (Krishnan Vs. Krishnaveni), wherein it has been held as follows_

21 “Ordinarily, when revision has been barred by Section 397(3) of the Code, a person accused/complainant – cannot be allowed to take recourse to the revision to the High Court under Section 397(1) or under inherent power of the High Court under Section 482 of the Code since it may amount to circumvention of the provisions of Section 397(3) or Section



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397(2) of the Code.” In another decision reported in 2014 (2) MWN (Cr.) 207 [D.Prabhu Srinivasan Vs. Dr.G.Ramaprabha], it has been held as follows_ “A reading of sub-section (3) of Section 397 would make it crystal clear that if an Application under this Section has been made by any person either to the High Court or to the Sessions Court, no further Application by the same person shall be entertained by the other of them.”

17.But, the learned counsel for the defacto-complainant relied upon the judgment reported in 1995 SCC (Cri) 634 [Ganesh Narayan Hegde Vs. S.Bangarappa], and submitted that though second revision does not lie under the Code, a petition under Section 482 of Cr.PC., is not barred. But, on a careful reading of the said 22 judgment relied on by the learned counsel for the defacto-complainant, I find that the Hon'ble Supreme Court has held in that case that the provision under Section 482 of Cr.P.C., can be invoked only when there is any abuse of process of Court or the interests of justice call for such exercise. But, in the instant case, I do not find any abuse of process of Court. Therefore, the petition under Section 482 of Cr.P.C., in the form of second revision, cannot be entertained....”



5. The above said decision squarely applies to the present case on hand and this Court does not find any abuse of process of law in the present case.

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As far as punishment is concerned, sentencing the accused is absolutely the discretion of the Court. Imposing two years imprisonment is not mandatory and the imprisonment may be extended to two years or fine up to twice the cheque or both. It is absolutely the discretion of the trial Court to sentence the accused taking note of the facts and circumstance of each case. Therefore, when the Act itself does not prescribe minimum punishment and the trial Court had imposed imprisonment of one year with fine of the cheque amount considering the nature of transaction between the parties, this Court is of the view that the trial Court had exercised such discretion in a reasonable manner. Hence, I do not find any merits in this petition.

6. Accordingly, this Criminal Original Petition is dismissed.

15-09-2025



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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

The XXI Additional Sessions Judge,
City Civil Court,
Allikulam, Chennai.



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N.SATHISH KUMAR J.

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