



CrI.R.C.No.233 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 09.06.2025

CORAM:

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

CrI.R.C.No.233 of 2023

1. Ashish Nevatia
2. Nidhi Nevatia

... Petitioners

Vs.

1. M/s.Kala Enterprises,
Rep. by Prakash Bhatt,
No.15, Vasu Street, 2nd Floor,
Kilpauk, Chennai – 600 010.

2. M/s.Core Indo Ispat P. Ltd.,
Rep. by Mr.Ashish Nevatia,
Director, No.315/152,
Thambu Chetty Street,
3rd Floor, Chennai – 600 001.

... Respondents

PRAYER: Criminal Revision has been filed under Section 397 r/w 401 of Cr.P.C., praying to call for records in C.A.151 of 2019 on the file of the VI Additional Sessions Judge, Chennai, conforming the conviction and sentence of ten months simple imprisonment and direction to pay compensation of Rs.40,00,000/- under Section 357(3) of Cr.P.C., r/w 138 of Negotiable Instruments Act and in default of payment of compensation, to undergo a further period of two months simple imprisonment as default sentence, imposed by the judgment dated 11.03.2019 in C.C.No.3301/2017 on the file of the Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai-1 and set aside the same and acquit the petitioners herein.



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For Petitioners : Mr.J.Pravin

For Respondents : Mr.C.Parthiban

ORDER

This Criminal Revision has been preferred against the judgment dated 10.10.2022 passed by the learned VI Additional Sessions Judge, Chennai, in C.A.No.151 of 2019, confirming the conviction and sentence imposed on the petitioners dated 11.03.2019 passed by the learned Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai, in C.C.No.3301 of 2017, for the offences punishable under Section 138 of the Negotiable Instruments Act (hereinafter referred to as “the NI Act”).

2. The petitioners are arrayed as A2 & A3 in the complaint lodged by the first respondent for the offence punishable under Section 138 of NI Act. The second respondent/company is arrayed as first accused. The first respondent lodged complaint alleging that the petitioners borrowed a sum of Rs.25,00,000/- on 19.06.2015 through RTGS and cash. They agreed to repay the same with interest at the rate of 3% per month and also jointly executed a pronote for the borrowal of the said loan amount. In order to repay the said amount along with interest, the petitioners had issued cheque for a sum of Rs.36,25,000/- and the same was presented for collection. However, it was



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returned dishonoured for the reason 'Exceeds Arrangements'. After causing statutory notice, the first respondent lodged the complaint.

3. On the side of the first respondent, he examined himself as P.W.1 and marked documents in Ex.P.1 to Ex.P.10. On the side of the petitioners, no one was examined and no documents were produced. On perusal of oral and documentary evidences, the trial Court convicted the petitioners for the offence punishable under Section 138 of the NI Act and sentences him to undergo ten months simple imprisonment and to pay compensation of Rs.40,00,000/- jointly and severally. Aggrieved by the same, the petitioners preferred an appeal and the same was also dismissed by confirming the order of conviction and sentence imposed by the trial Court. Hence, the petitioners filed the present revision case.

4. The learned counsel appearing for the petitioners submitted that on receipt of the statutory notice, which was marked as Ex.P.5, the petitioners issued reply notice which was marked as Ex.P.7 by rebutting the presumption. It was also elucidated from cross-examination of P.W.1. The petitioners never borrowed any loan from the first respondent. According to the petitioners, the cheque was given to one M/s.Arihant Enterprises and it was borrowed and



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misused by the first respondent. However, without considering the above facts and circumstances, the trial Court wrongly convicted the petitioners for the offence punishable under Section 138 of the NI Act.

5. Per contra, the learned counsel appearing for the first respondent submitted that the petitioners did not even deny the signature and issuance of cheque in favour of the first respondent. In fact, the loan which was borrowed by the petitioners was transferred by way of RTGS. Therefore, the first respondent categorically proved the presumption arose under Sections 139 & 138 of the NI Act. The trial Court rightly convicted the petitioners and the same was also confirmed by the appellate Court.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. The only defence raised by the petitioners was that the petitioners issued reply notice for the statutory notice issued by the first respondent which was marked as Ex.P.5. On perusal of Ex.P.5, it is revealed that on 19.06.2015, M/s. Arihant Enterprises collected six cheques from the petitioners on receipt of the amount through RTGS sent by M/s. Arihant Enterprises, thereby demand



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made by the first respondent on the cheque is only an imaginary thing and no

such borrowal was done by the petitioners. On receipt of the said reply notice, the first respondent issued rejoinder to the reply notice dated 18.08.2017, which was marked as Ex.P.8.

8. On perusal of the rejoinder dated 18.08.2017, it is revealed that the first respondent completely denied the reply and in order to escape from the clutches of law, the petitioners created new story as if they borrowed a sum of Rs. 20,00,000/- from M/s. Arihant Enterprises represented by one Amit Jain. The said M/s.Arihant Enterprises is nothing to do with the transactions between the petitioners and the first respondent. In fact, a sum of Rs.20,00,000/- had been transferred through RTGS by the first respondent and a sum of Rs.5,00,000/- by way of cash.

9. In order to substantiate the ground raised by the petitioners in their reply notice, the petitioners did not even let in any evidence and failed to produce any document and cross-examine M/s.Arihant Enterprises. Mere reply to the notice and cross-examination of P.W.1 did not help the petitioners to rebut the presumption arisen under Sections 118 & 139 of the NI Act. The petitioners did not even examine any one from M/s.Arihant Enterprises to



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prove that he borrowed loan from M/s.Arihant Enterprises and he had issued cheque to M/s.Arihant Enterprises. That apart, the petitioners also executed pronotes in favour of the first respondent which were marked as Ex.P.2 & Ex.P.10. Therefore, the first respondent categorically proved his case and the trial Court rightly convicted the petitioners and the same has been confirmed by the appellate Court. This Court finds no infirmity or illegality in the orders passed by the Court below and the revision fails.

10. Accordingly, the Criminal Revision Case stands dismissed.

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(2/2)

Internet: Yes
Index: Yes/No
Speaking/Non speaking order

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- 1.The VI Additional Sessions Judge,
Chennai.
- 2.The Metropolitan Magistrate,
Fast Track Court-IV, George Town,
Chennai.



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G.K.ILANTHIRAIYAN. J,

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