



CrI.R.C.No.120 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2025

CORAM:

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

CrI.R.C.No.120 of 2023
and CrI.M.P.No.11530 of 2024

Ashish Nevatia

... Petitioner

Vs.

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

... Respondent

PRAYER: Criminal Revision has been filed under Section 397 r/w 401 of Cr.P.C., praying to call for records in C.A.152 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.25,00,000/- 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.3297/2017 on the file of the Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai-1 and set aside the same and acquit the petitioner herein.



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CrI.R.C.No.120 of 2023

For Petitioner : Mr.J.Pravin

For Respondent : 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.152 of 2019, confirming the conviction and sentence imposed on the petitioner dated 11.03.2019 passed by the learned Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai, in C.C.No.3297 of 2017, 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 respondent for the offence punishable under Section 138 of NI Act alleging that the petitioner borrowed a sum of Rs.25,00,000/- on 19.06.2015 through RTGS and cash. He agreed to repay the same with interest at the rate of 3% per month and also executed a pronote for the borrowal of the said loan amount. Thereafter, the petitioner had paid part of the amount of Rs.10,00,000/- out of Rs.25,00,000/-. In order to settle the balance amount of Rs.15,00,000/- along with interest, the petitioner had issued cheque for a sum of Rs.20,10,000/- and the same was presented for collection. However, it was returned dishonoured



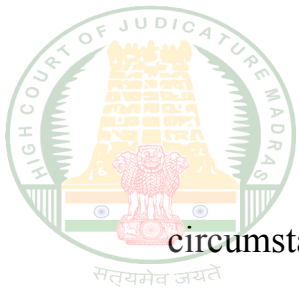
Crl.R.C.No.120 of 2023

for the reason 'account closed'. After causing statutory notice, the respondent

lodge the complaint.

3. On the side of the respondent, he examined himself as P.W.1 and marked documents in Ex.P.1 to Ex.P.11. On the side of the petitioner, no one was examined and no documents were produced. On perusal of oral and documentary evidences, the trial Court convicted the petitioner 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.25,00,000/-. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed by confirming the order of conviction and sentence imposed by the trial Court. Hence, the petitioner filed the present revision case.

4. The learned counsel appearing for the petitioner submitted that on receipt of the statutory notice, which was marked as Ex.P.6, the petitioner issued reply notice which was marked as Ex.P.8 by rebutting the presumption. It was also elucidated from cross-examination of P.W.1. The petitioner never borrowed any loan from the respondent. According to the petitioner, the cheque was given to one M/s.Arihant Enterprises and it was borrowed and misused by the respondent. However, without considering the above facts and



CrI.R.C.No.120 of 2023

circumstances, the trial Court wrongly 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 even deny the signature and issuance of cheque in favour of the respondent. In fact, the loan which was borrowed by the petitioner was transferred by way of RTGS. Therefore, the respondent categorically proved the presumption arose under Section 139 & 138 of the NI Act. The trial Court rightly convicted the petitioner 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 petitioner was that the petitioner issued reply notice for the statutory notice issued by the respondent which was marked as Ex.P.8. On perusal of Ex.P.8, it is revealed that on 19.06.2015, M/s. Arihant Enterprises collected six cheques from the petitioner on receipt of the amount through RTGS sent by M/s. Arihant Enterprises, thereby demand made by the respondent on the cheque is only an imaginary thing and no such



Crl.R.C.No.120 of 2023

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borrowal was done by the petitioner. On receipt of the said reply notice, the respondent issued rejoinder to the reply notice dated 18.08.2017, which was marked as Ex.P.9.

8. On perusal of the rejoinder dated 18.08.2017, it is revealed that the respondent completely denied the reply and in order to escape from the clutches of law, the petitioner created new story as if he 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 petitioner and the respondent. In fact, a sum of Rs.20,00,000/- had been transferred through RTGS by the respondent and a sum of Rs.5,00,000/- by way of cash.

9. In order to substantiate the ground raised by the petitioner in his reply notice, the petitioner 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 petitioner to rebut the presumption arisen under Sections 118 & 139 of the NI Act. The petitioner did not even examine any one from M/s.Arihant Enterprises to prove that he borrowed loan from M/s.Arihant Enterprises and he had issued cheque



CrI.R.C.No.120 of 2023

to M/s.Arihant Enterprises. That apart, the petitioner also executed pronote in

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favour of the respondent which was marked as Ex.P.3 Therefore, the respondent categorically proved his case and the trial Court rightly convicted the petitioner 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. Consequently, connected miscellaneous petition is closed.

09.06.2025
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Internet: Yes
Index: Yes/No
Speaking/Non speaking order

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CrI.R.C.No.120 of 2023

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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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Crl.R.C.No.120 of 2023

G.K.ILANTHIRAIYAN. J,

rts

Crl.R.C.No.120 of 2023
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