IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2025

CORAM :

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

Crl.R.C.No.96 of 2024

Ragahavan Naidu ... Petitioner

Vs.

M/s.Mansi Finance (Chennai) Ltd.,
Rep by its Manager/Authorized Agent,
Mr.A.Ramesh,
S/o.Agasthippana,
No.22-B, Mulla Sahib Street,
Sowcarpet, Chennai – 600 079. ... Respondent

Prayer : Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C., pleased to call for the records pertaining to the impugned Judgment dated 22.08.2023 passed in C.A.No.156 of 2022 by the learned XX Additional Sessions Judge, City Civil Court, Chennai confirming the Judgment dated 06.07.2022 passed in C.C.No.1529 of 2018 on the file of the learned Metropolitan Magistrate, Fast Track Court at Magistrate Level-IV, George Town, Chennai – 1 (Metropolitan Magistrate, Fast Track Court No.IV and set aside the same.

For Petitioner : Mr.E.Hariharan

For Respondent : M/s.R.Varalakshmi

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ORDER

This Criminal Revision Case has been preferred against the judgment dated 22.08.2023 passed in C.A.No.156 of 2022 by the learned XX Additional Sessions Judge, City Civil Court, Chennai, thereby confirmed the conviction and sentence u/s 138 of Negotiable Instruments Act imposed vide judgment dated 06.07.2022 passed in C.C.No.1529 of 2018 by the learned Metropolitan Magistrate, Fast Track Court at Magisterial Level – IV, George Town, Chennai – 1.

2. The petitioner is the accused in the complaint lodged by the respondent for the offence u/s 138 of Negotiable Instruments Act (in short 'the NI Act') alleging that the petitioner had availed loan facilities from the respondent company and the same was paid by cash to the tune of Rs.10,00,000/- and he had executed a promissory note in favour of the respondent on 08.10.2016. The total outstanding amount along with interest was Rs.11,60,000/-. In order to discharge the due as a part liability, the petitioner had issued a cheque bearing No.141337 dated 25.02.2017 drawn on Andhra Bank, Durga Nagar Branch, Chittoor in favour of the respondent for a sum of Rs.10,00,000/-. When the said cheque was presented on 27.02.2017 for collection, the same was

returned on 28.02.2017 for the reason “Funds Insufficient” with an endorsement “Kindly Contact the Drawer”. Thereafter, the respondent issued a legal notice to the petitioner on 13.03.2017. Inspite the service of notice on 15.03.2017, the petitioner has neither come forward to repay the said amount nor has sent any reply to the said notice. Hence, the respondent filed a complaint u/s 138 of NI Act on the file of the learned Metropolitan Magistrate, Fast Track Court at Magisterial Level – IV, George Town, Chennai – 1 in C.C.No.1529 of 2018.

3. After elaborate discussions, the trial court convicted the petitioner u/s 138 of the NI Act and sentenced him to undergo rigorous imprisonment for two months and to pay a compensation of Rs.7,50,000/- to the respondent. Challenging the same, the petitioner has filed an appeal in Criminal Appeal No.156 of 2022 before the learned XX Additional Sessions Judge, City Civil Court, Chennai and the learned Sessions Judge, vide judgment dated 22.08.2023, dismissed the appeal by confirming the conviction and sentence passed by the trial court. Aggrieved by the same, the present revision is filed.

4. The learned counsel for the petitioner submitted that on the date of alleged borrowal of Rs.10,00,000/-, the respondent did not even receive any documents for security. Originally, the petitioner borrowed loan to the tune of Rs.5,00,000/- and the same was fully repaid with interest. On the date of borrowal, the petitioner issued the alleged cheque for security purpose. However, it was mis-used by the respondent for initiating proceedings u/s 138 of NI Act. In fact, in the cross-examination of the respondent/P.W.1, he categorically admitted that he received a sum of Rs.5,00,000/-, but it was not for the said loan amount. Therefore, the petitioner categorically rebutted the presumption. Though the respondent failed to prove that the cheque was issued for legally enforceable debt, the Trial Court mechanically convicted the petitioner, which was confirmed by the Appellate Court and the same are not sustainable. Accordingly, he prays for allowing the revision.

5. The learned counsel for the respondent submitted that the petitioner did not deny issuance of cheque and the signature found in the cheque/Ex.P.3. Thereby, the respondent discharged his initial burden, however, the petitioner failed to rebut the same by any probable defence. Therefore, the Trial Court rightly convicted the petitioner, which was

confirmed by the Appellate Court also. In fact, this Court while suspending the sentence had directed the petitioner to deposit 50% of the cheque amount to the credit of C.C.No.1529 of 2019 before the Trial Court vide order dated 02.07.2024, but the petitioner failed to comply the same till today. Accordingly, she prays for dismissal of the revision.

6. Heard the learned counsel appearing for the parties and also perused the materials available on record.

7. The petitioner was examined as D.W.1 and he marked two documents viz., Ex.D.1 and Ex.D.2 to prove that he had transferred a sum of Rs.5,00,000/- on 07.07.2017 to the respondent. He also produced the statement of account from 01.01.2010 to 13.08.2019. During his cross-examination, he admitted that he did not take any steps to get back the promissory note and cheque even after returning the loan amount, which were allegedly issued for security purpose. The petitioner also did not lodge any complaint for not returning the promissory note and cheque as against the respondent. But the respondent admitted that a sum of Rs.5,00,000/- has been received through account. The respondent was examined as P.W.1. On a perusal of evidence of P.W.1, it revealed that

the respondent is running finance business and D.W.1 was working as Manager. He admitted that he received a sum of Rs.5,00,000/- through account. Further, the alleged date of borrwal was 08.10.2016. Within a period of four months, the respondent demanded Rs.11,60,000/-, however, the cheque amount was issued only for Rs.10,00,000/-. Further, on a perusal of the promissory note, which was marked as Ex.P.2, it was revealed that Ex.P.2 was not filled properly and there is no mentioning about the rate of interest. It shows that the promissory note and cheque were issued for security purpose at the time of borrowal of loan by the petitioner to the tune of Rs.5,00,000/-. Ex.D.1/Indian Bank Pass Book of the petitioner is clear that the petitioner deposited a sum of Rs.5,00,000/- through account towards repayment of loan amount. Therefore, though the respondent discharged his initial burden as contemplated u/s 139 of NI Act, the petitioner rebutted the presumption with probable defence. The specific case of the petitioner was that he did not borrow a sum of Rs.10,00,000/-. He borrowed only Rs.5,00,000/- and the same was repaid to the respondent. At the time of borrowal of Rs.5,00,000/-, he had issued cheque and promissory note for security purpose. Even after repaying the said borrowed amount, the respondent mis-used the cheque and promissory note for initiation of proceedings u/s 138 of NI Act. Without considering the above aspects, the Trial Court and the Appellate Court mechanically convicted the petitioner. Hence, the judgment passed by the Trial Court and the Appellate Court cannot be sustained and the same are liable to be set aside.

8. Accordingly, the conviction and sentence imposed on the revision petitioner/accused by the learned Metropolitan Magistrate, Fast Track Court at Magisterial Level – Iv, George Town, Chennai – 1 in C.C.No.1529 of 2018, dated 06.07.2022 and confirmed by the learned XX Additional Sessions Judge, City Civil Court, Chennai in C.A.No.156 of 2022 dated 22.08.2023 are set aside. The revision petitioner/accused is acquitted from all the charges levelled against him. Fine amount, if any paid by the petitioner/accused shall be refunded to him. Bail bond, if any, executed by the petitioner/accused shall stand cancelled.

9. In the result, this Criminal Revision Case is allowed.

09.07.2025

Index : Yes / No
Speaking order / Non-speaking order
NCC : Yes / No
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G.K.ILANTHIRAIYAN, J.

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To

1.The XX Additional Sessions Court,
City Civil Court, Chennai.

2.The Metropolitan Magistrate,
Fast Track Court at Magisterial Level – IV,
George Town, Chennai – 1.

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