



WEB COPY



Crl.RC No.2237 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-12-2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CRL RC No.2237 of 2023

and

CRL MP Nos. 20033 and 20034 of 2023

Brindha

Properitrx : S.S. Agencies,
No.97, Kuttakattuvalasu,
Pandipalayam Road,
Elamathur Post, Erode Taluk,
Erode – 638 104.

...Petitioner/Accused

Vs

Gunasekaran
S/o. Palanisamy,
No.11/2, Friends Apartment,
Brinda Nagar,
Thindal,
Erode Town, Erode Taluk,
Erode - 638 004.

...Respondent/Complainant

CRL MP No.20033 of 2023

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...Respondent/Complainant

CRL RC No. 2237 of 2023

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C., to call for records and to set aside Judgment dated 15.09.2023 in C.A.No.71 of 2021 on the file of the learned Principal Sessions Judge, Erode by confirming the Judgment passed by the learned Judicial Magistrate FTC-II, Erode in STC.No.516 of 2017 by an order dated 22.03.2021.



Crl.RC No.2237 of 2023

CRL MP No. 20033 of 2023

PRAYER: Criminal Miscellaneous Petition filed under Section 389 (1) of Cr.P.C., to suspend the sentence imposed in C.A.No.71 of 2021 dated 15.09.2023 on the file of the learned Principal Sessions Judge, Erode by confirming the sentence passed by the learned Judicial Magistrate FTC-II, Erode, in STC.No.516 of 2017 by an order dated 22.03.2021 and enlarge the petitioner on bail.

CRL MP No.20034 of 2023

PRAYER : Criminal Miscellaneous Petition filed under Section 482 of Cr.P.C., to exempt the petitioner from surrendering in pursuance of the Judgment dated 15.09.2023 in C.A.No.71 of 2021 on the file of the learned Principal Sessions Judge, Erode, by confirming the Judgment passed by the learned Judicial Magistrate FTC-II, Erode in STC.No.516 of 2017 by an order dated 22.03.2021 pending disposal of the criminal revision petition.

CRL RC No. 2237 of 2023

For Petitioner: M/s. G.Vinodhkumar
Mr.S.Suresh
Mr.S.Gowtham

For Respondent: Mr.K.Vijayakumar

ORDER

The Criminal Revision Case has been filed challenging the Judgment in C.A.No.71 of 2021 on the file of the learned Principal Sessions Judge, Erode, confirming the Judgment passed in S.T.C.No.516 of 2017 by the learned Judicial Magistrate, Fast Track Court No.II, Erode, convicting the petitioner, for the offence under Section 138 of the



Negotiable Instruments Act, and sentencing her to undergo simple imprisonment for one year and to pay compensation of Rs.8,00,000/- (Rupees Eight Lakhs Only), being the cheque amount.

2. The respondent herein filed a complaint under Section 138 of the Negotiable Instruments Act, alleging that towards the discharge of the petitioner's liability, the petitioner had issued a cheque for a sum of 8,00,000/- (Rupees Eight Lakhs Only); that when the said cheque was presented for collection, it was returned to the endorsement "Account Closed"; and that in spite of the statutory notice, the petitioner did not make any payment and thus, committed the aforesaid offences.

3. The respondent/complainant had examined himself as P.W.1 and marked Exs.P1 to P11. The petitioner/accused neither examined any witness nor marked any document.

4. The Trial Court found that the petitioner had not rebutted the statutory presumption under Section 138 of the NI Act; that the petitioner failed to prove her defence that the cheque was issued to one Mr.Suresh and the said Mr.Suresh had misused the said cheque and filed a false complaint through the respondent and convicted the petitioner of the



aforsaid offences and sentenced her as stated above. The Appellate Court also confirmed the finding of guilt and the sentence imposed by the trial Court.

5. The learned counsel for the petitioner/accused would submit that the impugned Judgments are liable to be set aside; that the respondent/complainant had not established his capacity to pay the amount mentioned in the cheque; that the petitioner had only obtained a loan of Rs.8,00,000/- from one Mr.Suresh who is a private financier, and had issued four cheques as security; that the said Mr.Suresh had claimed that he had misplaced those cheques and filed a complaint through the respondent herein; and that since the petitioner had rebutted the statutory presumption, the Judgments of the Courts below have to be set aside.

6. The learned counsel for the respondent/complainant, per contra, would submit that the petitioner had filed an application to examine the said Mr.Suresh; though opportunity was given to the petitioner to produce the said Mr.Suresh, the said Mr.Suresh has not been produced; that the said Mr.Suresh was not available at the said address and therefore, the petitioner had not rebutted the statutory presumption and hence, the Judgments of the Courts below do not call for any interference, and prayed for dismissal of the revision.



7. Heard the rival submissions made by the learned counsel on either side and perused the materials available on record and the impugned Judgment.

8. The defence of the petitioner was that the petitioner had obtained a loan from one Mr.Suresh and handed over the said cheques to him; and that the said Mr.Suresh had misused the cheques and had filed the complaint against the petitioner.

9. It is seen from the Judgment of the Trial Court that it had given sufficient opportunity to the petitioner to examine the said Mr.Suresh to prove her defence. In fact, the Trial Court had also issued a witness warrant and had adjourned the case for several hearings for the production of the said Mr.Suresh. However, since he was not produced, the defence side evidence was closed on 20.09.2019. Thereafter, the petitioner filed a petition to examine a postmaster and one Mr.Balasubramaniam, who is the landlord of the said Mr.Suresh, to show that the said Mr.Suresh resided at the address stated by the petitioner. The said petition was dismissed by the Trial Court.



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10. The fact is that the petitioner was unable to establish her defence before the Trial Court. The petitioner has not disputed the signature in the cheque. The Trial Court had therefore drawn the statutory presumption, which has not been rebutted. Though a faint attempt by the petitioner to show that the respondent had no capacity to lend the said sum, the Courts below held that the said defence has not been probablised. The petitioner is unable to point out any reason to interfere in the said findings. Therefore, this Court finds no infirmity in the Judgments of the Courts below in convicting the petitioner and imposing the sentence as aforesaid. Hence, this Court finds no merits in this revision.

11. Accordingly, the Criminal Revision Case is dismissed, confirming the conviction and sentence imposed by the Courts below. Consequently, the connected Criminal Miscellaneous Petitions are closed.

17-12-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation : Yes/No



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SUNDER MOHAN J.
dk

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(2/2)