



Crl.R.C.(MD).No.1155 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 18.08.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.1155 of 2022

in

Crl.M.P.(MD).Nos.14496 & 14497 of 2022

K.Ramakrishnan

...Petitioner/Appellant/Accused

Vs.

Gel Ice Company,
Through its Proprietor,
E.Ravi,
No.10, Reliance Nagar,
Chekkalaikottai,
Karaikudi,
Sivagangai

...Respondent/Respondent/
Complainant

PRAYER: Criminal Revision Case has been filed under Section 397 r/w 401 of Cr.P.C., to set aside the conviction and sentence dated 01.02.2020 in C.C.No.139 of 2019 on the file of the Judicial Magistrate Court, Karaikudi and confirmed by the judgment dated 07.07.2022 in Crl.A.No.17 of 2020 on the file of the Additional District Judge, Sivagangai.

For Petitioner : Mr.S.Manoharan

For Respondent : Mr.D.Manoharan



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ORDER

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The revision petitioner has filed this Criminal Revision Case challenging the conviction and sentence imposed in C.C.No.139 of 2019, dated 01.02.2020 on the file of the learned Judicial Magistrate, Karaikudi and confirmed in C.A.No.17 of 2020 on the file of the learned Additional District Judge, Sivagangai, vide judgment dated 07.07.2022.

2.Both the Courts below passed the following conviction and sentence of imprisonment and compensation against the petitioner:

Conviction	Sentence of Imprisonment	Fine	Default sentence	Compensation
C.C.No. 139 of 2019	Undergo 9 months of simple imprisonment	Rs. 2,15,000/-	Three months of simple imprisonment	Out of fine amount of Rs.2,15,000/-, a sum of Rs.2,10,000/- as compensation
C.A.No.17 of 2020	Undergo 9 months of simple imprisonment	Rs. 2,15,000/-	Three months of simple imprisonment	Out of fine amount of Rs.2,15,000/-, a sum of Rs.2,10,000/- as compensation

3.For the convenience and brevity of the discussion of the case, the rank of the parties mentioned in C.C., are referred hereunder;



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3.1.Brief facts of the case:

The accused borrowed a sum of Rs.2,00,000/- from the complainant for his urgent family needs and to improve his business on 24.04.2019. To discharge the same, he has given a cheque bearing registration No.543261 to the complainant, the same was presented before the Vijaya Bank @ Bank of Baroda, Karaikudi Branch, on 18.06.2019 and the same was returned as “Funds Insufficient” on 19.06.2019. Therefore, on 09.07.2019, the complainant has issued a legal notice to the accused and the same was received by the accused on 10.07.2019. The accused sent a false reply notice under Ex.P6 and declined to pay the cheque amount within the statutory period. Hence, the respondent filed a complaint before the learned Judicial Magistrate, Fast Track Court, Karaikudi under Section 138 of Negotiable Instruments Act, and the same was taken on file in C.C.No.139 of 2019 and summons was issued to the accused.

3.2. Thereafter, on receipt of the summon, the accused appeared and pleaded not guilty and claimed to be tried and contested the case. During the trial, to prove the case, the complainant has been examined as PW1 and exhibited seven documents as Ex.P1 to Ex.P7. Thereafter, the learned trial judge, questioned the accused under Section 313 of Cr.P.C., by putting the



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incriminating materials available against him. The accused denied as false. On the side of the accused, neither any witness was examined nor any documents were marked.

3.3.The learned Judicial Magistrate, FTC, Pattukkottai, after hearing the argument of both side, convicted the accused by impugned judgment dated 07.07.2022 under Section 138 of the Negotiable Instruments Act and sentenced him to undergo 9 months simple imprisonment and to pay a fine of Rs.2,15,000/- (Rupees Two Lakhs and Fifteen Thousands only) in default to undergo three months simple imprisonment under Section 255(2) of Cr.P.C.,and granted 15 days time to pay the fine from the date of judgment and out of 2,15,000/- fine amount a sum of Rs.2,10,000/- was directed to be paid as compensation to be paid to the complainant under Section 357(1)(b) of Cr.P.C. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned Additional District Judge, Sivagangai in C.A.No.17 of 2020. However, the same was dismissed on 07.07.2022, thereby confirming the conviction and sentence imposed on the petitioner. Aggrieved over the above said conviction and sentence imposed by the Courts below, the petitioner has preferred the present Criminal Revision Case.



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4.The learned counsel for the petitioner would submit that the accused raised a plea that the cheque was issued to one Ramar from Karaikudi and the same was misused by the complainant. There was no money transaction between himself and complainant. The said defence was not properly considered by both the Courts below.

5.The learned counsel for the complainant would submit that the accused without discharging his debt amount due to the complainant, after issuance of cheque, has raised the false plea that there was no debtor and borrower relationship. To substantiate his defence, nothing was elicited during the cross examination of the complainant and nothing adduced either by way of oral and documentary evidence on his side. Both the Courts below have considered the entire materials available on record and have held that the defence of the accused has not been proved. The accused has not produced any materials to prove that the cheque in question was given to one Ramar of Karaikudi and the same was misused by the complainant. Therefore, the finding of both the Courts below needs no interference and he seeks to dismiss this Criminal Revision Case.



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6.This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on records.

7.The accused has not adduced any evidence, to prove that he has not received any amount from the complainant. He has not produced any evidence or elicited circumstances, during the course of the examination of the complainant to substantiate his case of no borrowal from the complainant. The issuance of cheque was proved through the cogent and trustworthy evidence of P.W.1. Therefore, the presumption under Section 139 of the Negotiable Instrument Act, arises and nothing was adduced on the side of the accused nor any material circumstances were elicited to rebut the same.

8.It is the duty of the accused, to prove his case of the issuance of cheque not in favour of the complainant. No circumstances were established to prove his case. The accused admitted his signature in the cheque and nothing was adduced to prove that he has no money transaction with the complainant and under what circumstances, the cheque has gone to the hands of the complainant.



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9. Mere denial of liability or passing of consideration will not be sufficient to rebut the presumption under Section 139 of the Negotiable Instrument Act and in this regard, it is relevant to refer the following judgments of the Hon'ble Supreme Court:

(i) In the case of ***Rajesh Jain Vs. Ajaysingh*** reported in **2023 (10) SCC 148**

(ii) In the case of ***Sumeti vij vs. Paramount Tech Fab Industries*** reported in **2022 (15) SCC 689**

10. The accused to prove his case, need not examine himself as a witness but, duty bound to discharge the onus by bringing on record such facts and circumstances as to show preponderance of probabilities.

11. In this case, he failed to establish his defence by preponderance of probabilities. Therefore, both the Courts below correctly convicted the petitioner and on going through the records, this Court finds no perversity in the finding of both the Courts below and hence, this Criminal Revision Case lacks merits and consequently liable to be dismissed.



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12. Accordingly, the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court, Karaikudi, in C.C.No.139 of 2019 dated 01.02.2020 and confirmed by the learned Additional District Judge, Sivagangai in C.A.No.17 of 2020, dated 07.07.2022 is hereby confirmed and the Criminal Revision case stands dismissed. The learned Judicial Magistrate is hereby directed to take steps to secure the accused to undergo the remaining period of sentence of imprisonment imposed on him. Consequently, connected miscellaneous petitions are closed.

18.08.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
sbm

To

- 1.The Additional District Judge, Sivagangai.
- 2.The Judicial Magistrate, Fast Track Court, Karaikudi.
- 3.The Section Officer,
Criminal Record,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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