



Crl.RC(MD).No.1048 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

Crl.RC(MD).No.1048 of 2024
Crl.MP(MD)Nos.11529 of 2024

R.Jayaraman, S/o Ramasamy,
No. E1/25/5 Greenland Apartments,
Annamalai nagar, Thillai Nagar,
Thiruchirappalli district.

Revision Petitioner

Vs

P.Shajahan, S/o Pakkirmaideen,
No. 2/413 8th cross street,
Melakaveri Jamiya nagar,
Kumbakonam, Thanjavur district.

Respondent

Prayer:- This Criminal Revision Case has been filed, under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), to call for the records, relating to the judgement of conviction and sentence, dated 27.08.2024, passed in Crl.A.No.113 of 2023, by the I Additional District and Sessions Judge (PCR) Thanjavur, confirming the judgement of conviction and sentence, dated 21.03.2023, passed in STC.No.137 of 2018, by the Judicial Magistrate, Thiruvaiyaru, Thanjavur and to set aside the same and to acquit the Petitioner.



Crl.RC(MD).No.1048 of 2024

WEB COPY

For Revision Petitioner : Ms.V.Muthulakshmi

For Respondent : Ms.Ayisha Siddique
for Mr.A.Haja Mohideen

ORDER

1. This Criminal Revision Case is filed against the judgement of conviction and sentence, dated 27.08.2024, passed in Crl.A.No.113 of 2023, by the I Additional District and Sessions Judge (PCR) Thanjavur, confirming the judgement of conviction and sentence, dated 21.03.2023, passed in STC.No.137 of 2018, by the Judicial Magistrate, Thiruvaiyaru, Thanjavur District.
2. The facts of the case, in a nutshell, as seen from the materials available on record, are that that the Revision Petitioner/Accused had a business at Malaysia and the Respondent/Complainant is having licence to send articles to Malaysia. In a business transaction between them, for the articles sent by the Respondent, the Revision Petitioner had issued two cheques, bearing No.781061, dated 25.11.2017, for a sum of Rs. 3,00,000/- and bearing No.781063, dated 10.02.2018, for a sum of Rs. 4,39,300/-, drawn on Indian Overseas Bank, Thillai Nagar Branch, Tiruchirappalli. When the said cheques were presented for encashment, they were dishonoured for the reason “Insufficient Funds”, with written



Crl.RC(MD).No.1048 of 2024

WEB COPY

memos, dated 04.12.2018 and 12.02.2018, respectively. Hence, the Respondent had issued a legal notice, dated 14.02.2018, for which, a reply notice, dated 26.02.2018 was sent by the Revision Petitioner. Thereafter, the Respondent had filed a complaint in STC.No.137 of 2018 before the Trial Court, against the Revision Petitioner, for the offence under Section 138 of the Negotiable Instruments Act, for recovery of the cheque amount.

3. After completion of trial, by the impugned judgement of conviction and sentence, the Trial Court, drawing a legal presumption under Section 139 of the Negotiable Instruments Act that the cheques in question were drawn to discharge the legally enforceable debt, as the Revision Petitioner/ accused has not rebutted the presumption under Section 139 of the Negotiable Instruments Act, had convicted and sentenced the accused for the offence under Section 138 of the Negotiable Instruments Act to undergo one year Simple Imprisonment and to pay a compensation of Rs.7,39,300/-, being the cheque amounts, in default, to undergo three months Simple Imprisonment. The lower appellate court had also, by its impugned judgement of conviction and sentence and order, dismissed the appeal filed as against the judgement of conviction and sentence of the Trial Court, by the accused, on the same lines.



Crl.RC(MD).No.1048 of 2024

WEB COPY

Hence, this Criminal Revision Case has been filed by the Revision Petitioner/ accused.

4. This Court heard Ms.V.Muthulakshmi, the learned counsel for the Revision Petitioner/ accused and Ms.Ayisha Siddique for Mr.A.Haja Mohideen, the learned counsel for the Respondent/ complainant and considered their submissions and also perused the entire materials placed on record.

5. In this case, the total amount covered under the cheque in question is Rs.,7,39,000/-. When this Criminal Revision Case, along with the application in Crl.MP.No.11529 of 2024 for suspension of sentence, came up for admission on an earlier occasion on 28.10.2024, before the Coordinate Bench of this Court, it was represented by the learned counsel for the Revision Petitioner that the Revision Petitioner had already deposited a sum of Rs.1,47,860/-, for which, a copy of receipt, dated 31.05.2023 is also annexed with the paper book at page No.103.

6. In the application in Crl.MP.No.11529 of 2024, seeking suspension of sentence, the Coordinate Bench of this Court, by order dated, 28.10.2024, had passed the following order:-

“The above petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District in STC.No.137 of 2018, dated



WEB COPY

21.03.2023, which was confirmed by the learned I Additional District and Sessions Judge (PCR), Thanjavur, Thanjavur District in Crl.A. No.113 of 2023, dated 27.08.2024.

2.The case of the respondent/complainant is that one Settu is his friend and he is having house and land nearby the petitioner, that the said Settu introduced the petitioner to the respondent and the petitioner had business at Malaysia, that the petitioner came to know that the respondent is having license to sent articles to Malaysia and requested him to sent articles to Malaysia on behalf of him, that the petitioner assured to bear the charges and told that he would get profit from 20% to 40% and also assured to pay 10% to the respondent and thereby, the respondent sent articles to the address mentioned by the petitioner, that the petitioner did not pay the amount as assured and when the respondent demanded money, the petitioner issued three cheques and the same were presented for collection on 25.01.2018, however, the same was returned for the reason that “Insufficient Funds” and hence, the respondent has issued legal notice to the petitioner on 14.02.2018 and the petitioner has sent reply on 26.02.2018 with false allegations and that thereafter, the respondent lodged the present complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner has been convicted by the trial Court for the alleged offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo one year simple imprisonment and to pay the cheque amount of Rs.7,39,300/-, in default, to undergo three months simple imprisonment.

4.Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.113 of 2023 on the file of the I Additional District and Sessions Judge (PCR), Thanjavur, Thanjavur District. The learned Sessions Judge confirming the conviction and sentence, dismissed the appeal. Being dissatisfied with the dismissal of the appeal, the petitioner has preferred the present Criminal Revision along with the instant miscellaneous petition seeking suspension of



sentence.

5.The learned counsel appearing for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has already deposited a sum of Rs.1,47,860/- before the trial Court.

6.This Court has carefully considered the contentions put forward by the learned counsel appearing for the petitioner and also perused the materials available on record.

7.The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioners herein is entitled to the relief of grant of suspension of sentence.

8.Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall deposit 50% of the balance amount, ie., a sum of Rs.2,95,720/- (Rupees Two Lakhs Ninety Thousand Seven Hundred and Twenty only) on or before 25.11.2024 to the credit of STC.No.137 of 2018 on the file of the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District, failing which the sentence suspended shall automatically dismissed and the concerned jurisdictional police is at liberty to execute the sentence imposed by the trial Court against the petitioner in the manner known to law;

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate, Thiruvaiyaru, Thanjavur District;



Crl.RC(MD).No.1048 of 2024

WEB COPY

(iii) *The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and*

(iv) *The petitioners shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.*

9.Post the matter on 26.11.2024 'for reporting compliance'.

7. Thereafter, at the time when considering the matter on 26.11.2024 “For Reporting Compliance”, a Memo of Compliance, dated 26.11.2024 had been filed, stating that the Revision Petitioner had deposited a sum of Rs.2,95,720/-, vide receipt No.0512276, dated 22.11.2024, a copy of which is also enclosed along with the said Memo of Compliance. The Coordinate Bench of this Court, by order dated 26.11.2024, had passed the following order in Crl.MP.No.11529 of 2024:-

“Today, this matter has been listed under the caption “for reporting compliance”.

2. In pursuant to the order of this Court, dated 28.10.2024, the petitioner has deposited a sum of Rs.2,95,720/- (Rupees Two Lakhs Ninety Five Thousand Seven Hundred and Twenty Only) to the credit of S.T.C.No.137 of 2018 on the file of the learned



Crl.RC(MD).No.1048 of 2024

Judicial Magistrate, Thiruvaiyaru on 22.11.2024. A memo, along with a copy of payment receipt, has been filed to that effect, and the said memo is recorded. ”

8. The Coordinate Bench of this Court, on 26.11.2024, had passed another order in Crl.RC(MD)Nos.1047 and 1048 of 2024, as under:-

“At request of both the sides, these matters are referred to Mediation and Conciliation Centre attached to this Bench.

2. Both the parties are directed to appear before the Mediation Centre on 11.12.2024 without fail. In the mean time, the Mediation Centre shall appoint a Mediator in this case. Registry is directed to issue notice to the parties to appear before the learned Mediator on that date.

3. Registry is directed to list these matter after completion of Mediation.”

9. Thereafter, the matter came up before the Tamil Nadu Mediation and Conciliation Centre, Madurai Bench of Madras High Court, Madurai. A mediation report, dated 08.01.2025, has been filed, stating that “Petitioner not turned up. Hence, Mediation could not be commenced”.

10. Then, the Respondent/ complainant had filed Crl.MP(MD)No.14357 of 2024 before the Coordinate Bench of this Court, seeking to withdraw a sum of Rs.2,95,720/-, deposited by the Revision Petitioner/ accused. In the affidavit filed in support of Crl.MP(MD)No.14357 of 2024, it is admitted by the Respondent/ complainant that the Revision Petitioner/



Crl.RC(MD).No.1048 of 2024

WEB COPY

accused had deposited a total sum of Rs.4,43,580/-. The Coordinate Bench of this Court, vide order dated 18.02.2025, had passed the following order in Crl.MP(MD)No.14357 of 2024:-

“This petition has been filed by the petitioner/respondent to permit him to withdraw Rs.2,95,720/- (Rupees Two lakhs ninety five thousand seven hundred and twenty only) deposited by the respondent/petitioner in S.T.C.No.137 of 2018 on the file of the learned Judicial Magistrate, Thiruvaiyaru.

2. The learned counsel for the petitioner submitted that the respondent/petitioner was found guilty U/s.138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of one year and also directed the respondent/petitioner to pay Rs.7,39,300/- (Rupees Seven lakhs thirty nine thousand three hundred only) to the petitioner/respondent/complainant towards compensation, in default, to undergo simple imprisonment for a period of 3 months, by judgment dated 21.03.2023 passed in S.T.C.No.137 of 2018 on the file of the learned Judicial Magistrate, Thiruvaiyaru. Challenging the judgment, the respondent/petitioner preferred the appeal in Crl.A.No.113 of 2023 before the I Additional District and Sessions Court (PCR), Thanjavur and the appeal was dismissed on 27.08.2024. Pending proceedings, the respondent/petitioner deposited Rs. 1,47,860/- (Rupees One lakh forty seven thousand eight hundred and sixty only) to the credit of S.T.C.No.137 of 2018 on the file of the learned Judicial Magistrate Thiruvaiyauru. Thereafter, the respondent/petitioner has filed the main Crl.R.C(MD) No.1048 of 2024 along with Crl.M.P(MD)No. 11529 of 2024 before this Court. This Court while suspending sentence in Crl.M.P(MD)No.11529 of 2024 on 28.10.2024, directed the respondent/petitioner to deposit 50% of the balance amount i.e., Rs.2,95,720/- (Rupees Two lakhs ninety five thousand seven hundred and twenty only) to the credit of S.T.C.No.137 of 2018 on the file of the learned Judicial Magistrate, Thiruvaiyauru and accordingly, the



WEB COPY

respondent/petitioner deposited. Now, there is Rs.4,43,580/- (Rupees Four lakhs forty three thousand five hundred and eighty only) in the credit of S.T.C.No.137 of 2018 on the file of the learned Judicial Magistrate, Thiruvaiyauru. The petitioner/respondent is aged 70 years and the cheque amount is being business transaction amount between the parties and he is conducting the case for the past 7 years. Further, he submitted that there is concurrent finding by the trial Court as well as the Appellate Court, so he may be permitted to withdraw the amount of Rs.2,95,720/- (Rupees Two lakhs ninety five thousand seven hundred and twenty only) under deposit.

3. The learned counsel for the respondent/petitioner raised an objection that he has made several grounds challenging the findings of the courts below and the transaction was made by the respondent/petitioner through one Inbaraj, but the petitioner/respondent has not taken any action against Inbaraj and so, the petitioner may not be permitted to withdraw the amount.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

5. The submissions of both sides counsels have been carefully considered. It is admitted that the respondent/petitioner was found guilty U/s.138 of the Negotiable Instruments Act and he was directed to pay the compensation of cheque amount by the trial Court and the appeal preferred by him was also dismissed by the Appellate Court. Now, the respondent/petitioner has moved this Court with Crl.R.C(MD) No.1048 of 2024 and the same is pending. It is also admitted that the respondent/petitioner deposited a total sum of Rs.4,43,580/- (Rupees Four lakhs forty three thousand five hundred and eighty only) to the credit of S.T.C.No.137 of 2018 on the file of the Judicial Magistrate, Thiruvaiyauru as directed by the Court while suspending the sentence. However, the petitioner/respondent seeks for withdrawal of Rs.2,95,720/- (Rupees Two lakhs ninety five thousand seven hundred and twenty only) from the deposited amount.



WEB COPY

6. For better appreciation it is better to quote the relevant Section 148 of the Negotiable Instruments Act, which reads as follows:

"148: Power of Appellate Court to order payment pending appeal against conviction:

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), in an appeal by the drawer against conviction under Section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent of the fine or compensation awarded by the trial Court:

PROVIDED that the amount payable under this subsection shall be in addition to any interim compensation paid by the appellant under Section 143A.

(2) The amount referred to in sub section (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.

(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

PROVIDED that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant."

7. On plain reading of Section 148 of the Negotiable Instruments Act, it is very clear that the appellate Court may order the accused to deposit a minimum of 20% of the fine



WEB COPY

amount or the compensation awarded by the trial Court and if the said amount is deposited within 60 days from such order, the said Court may direct to release the amount in deposit made by the accused to the complainant during the pendency of the appeal, and while releasing such amount, the complainant must be directed to repay the said amount in the event of acquittal of the accused with interest at the bank rate which was prevailing during the said period.

8. It is settled proposition that as per the Act, the "appellate Court", which also includes this Court and which is exercising all the powers as enumerated under Section 401 of Cr.P.C. This Court while considering the revision, can also exercise the power under Section 386 of Cr.P.C. and other incidental provisions. For speedy disposal of the cheque bounce cases, the Act has been amended from time to time by the Central Government as there are delaying tactics of unscrupulous drawers of dishonoured cheques due to easy filing of appeals and obtaining the stay and in order to avoid injustice caused to the complainant. Already there is a concurrent finding of both Courts and there is a deposit of 50% of the cheque amount. The petitioner is aged 70 years and has been agitating for his cheque amount for the past 7 years. The petitioner wants to withdraw Rs.2,95,720/- deposited by the respondent/petitioner as per order of this Court. I am of the considered view that when the enactment has been made as a beneficial legislation, to protect the interest of the complainant and provide relief and to avoid and discourage frivolous appeals and litigations, the petitioner may be permitted to withdraw the deposit amount and therefore, I am inclined to allow this petition on conditions.

*9. In the result, this petition is allowed and **the petitioner is permitted to withdraw Rs.2,95,720/- (Rupees Two lakhs ninety five thousand seven hundred and twenty only) deposited by the respondent to the credit of S.T.C.No.137 of 2018 on the file of the learned Judicial Magistrate, Thiruvaiyaru on the following conditions:***

(i) The petitioner/complainant has to execute a bond for a sum



CrI.RC(MD).No.1048 of 2024

WEB COPY

of Rs.2,95,720/- (Rupees Two lakhs ninety five thousand seven hundred and twenty only) with one surety for the like sum to the satisfaction of the Judicial Magistrate Court, Thiruvaiyaru;

(ii) The petitioner/complainant shall file an undertaking affidavit that if the respondent/accused is acquitted in this case, the petitioner/complainant has to repay the said amount with interest at the bank rate as on the date of release.”

11. Thereafter, when the matter came up for consideration on 04.09.2025 before this Court, at the request of the learned counsel for the Revision Petitioner, the matter was adjourned to 23.09.2025 and this Court, vide order dated, 04.09.2025, had passed the following order in CrI.RC(MD)Nos.1047 and 1048 of 2024:-

“Mr.C.Suresh Kannan, learned Counsel for the petitioner prays some more time to argue the case.

2.Mr.A.Hajamohideen, learned counsel for the respondent has no objection to the prayer made by the learned Counsel for the petitioner.

3.Accordingly, as prayed for by the learned Counsel for the petitioner, adjournment is allowed.

4.Put up these cases on 23.09.2025 before the appropriate Bench.”

12. Then, when the matter came up for consideration on 23.09.2025, before this Court, it was submitted by the learned counsel for the Respondent/ complainant that the Respondent/ complainant had withdrawn the sum



Crl.RC(MD).No.1048 of 2024

WEB COPY

of Rs.4,43,580/-, deposited by the Revision Petitioner/ accused before the Trial Court. The learned counsel for the Revision Petitioner had also given an undertaking before this Court that the Revision Petitioner was ready to deposit the entire balance amount of Rs.2,95,720/- for compounding the offence on the next date to be fixed and to settle the matter. On such undertaking, this Court, vide order dated 23.09.2025, had passed the following order, adjourning the matter to 16.10.2025:-

“This Criminal Revision Case has been filed with the following prayer:

“to call for the records and to set aside the judgment, dated 27.08.2024 passed in Crl.A.No.113 of 2023 on the file of the I Additional District and Sessions Court (PCR), Thanjavur, Thanjavur District confirming the conviction and sentence imposed upon the petitioner in S.T.C.No.137 of 2018 on the file of the Judicial Magistrate Court, Thiruvaiyaru, Thanjavur District, dated 21.03.2023 and acquit the petitioner.”

2.The Co-ordinate Bench of this Court, vide order, dated 28.10.2024, in Crl.M.P(MD)No.11529 of 2024 in Crl.R.C(MD)No.1048 of 2024, has passed the following order:

“The above petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District in STC.No.137 of 2018, dated 21.03.2023, which was confirmed by the learned I Additional District and Sessions Judge (PCR), Thanjavur, Thanjavur District in Crl.A. No.113 of 2023, dated 27.08.2024.

2.The case of the respondent/complainant is that one Settu is his friend and he is having house and land nearby the petitioner, that the said Settu introduced the petitioner to the



WEB COPY

respondent and the petitioner had business at Malaysia, that the petitioner came to know that the respondent is having license to sent articles to Malaysia and requested him to sent articles to Malaysia on behalf of him, that the petitioner assured to bear the charges and told that he would get profit from 20% to 40% and also assured to pay 10% to the respondent and thereby, the respondent sent articles to the address mentioned by the petitioner, that the petitioner did not pay the amount as assured and when the respondent demanded money, the petitioner issued three cheques and the same were presented for collection on 25.01.2018, however, the same was returned for the reason that “Insufficient Funds” and hence, the respondent has issued legal notice to the petitioner on 14.02.2018 and the petitioner has sent reply on 26.02.2018 with false allegations and that thereafter, the respondent lodged the present complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner has been convicted by the trial Court for the alleged offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo one year simple imprisonment and to pay the cheque amount of Rs.7,39,300/-, in default, to undergo three months simple imprisonment.

4.Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.113 of 2023 on the file of the I Additional District and Sessions Judge (PCR), Thanjavur, Thanjavur District. The learned Sessions Judge confirming the conviction and sentence, dismissed the appeal. Being dissatisfied with the dismissal of the appeal, the petitioner has preferred the present Criminal Revision along with the instant miscellaneous petition seeking suspension of sentence.

5.The learned counsel appearing for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has already deposited a sum



WEB COPY



Crl.RC(MD).No.1048 of 2024

of Rs.1,47,860/- before the trial Court.

6.This Court has carefully considered the contentions put forward by the learned counsel appearing for the petitioner and also perused the materials available on record.

7.The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioners herein is entitled to the relief of grant of suspension of sentence.

8.Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i)The petitioner shall deposit 50% of the balance amount, ie., a sum of Rs.2,95,720/- (Rupees Two Lakhs Ninety Thousand Seven Hundred and Twenty only) on or before 25.11.2024 to the credit of STC.No.137 of 2018 on the file of the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District, failing which the sentence suspended shall automatically dismissed and the concerned jurisdictional police is at liberty to execute the sentence imposed by the trial Court against the petitioner in the manner known to law;

(ii)On such deposit, the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate, Thiruvaiyaru, Thanjavur District;

(iii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iv) The petitioners shall appear before the trial Court once in



WEB COPY

a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

9.Post the matter on 26.11.2024 'for reporting compliance'."

2.Today, when the matter is being taken up, Mr.C.Suresh Kannan, learned Counsel for the petitioner submits that the petitioner has already deposited a sum of Rs.1,47,860/- before the trial Court on 31.05.2023 and in compliance of the order passed by the Co-ordinate Bench of this Court, dated 28.10.2024, a sum of Rs.2,95,720/- was deposited before the trial Court on 20.11.2024, out of the total cheque amount of Rs. 7,39,300/-. The learned Counsel for the petitioner has produced a copy of the deposit receipt before this Court, which is taken on record.

3.The learned Counsel for the petitioner further submits that the petitioner is ready to pay the entire balance amount of Rs. 2,95,720/- by way of demand draft in favour of the respondent on or before the next date fixed and he submits that the matter may be finally decided on the basis of compromise. The learned Counsel for the petitioner also submits that this Court by exercising power under Section 147 of the Negotiable Instruments Act,1881, may compound the offence.

5.Mr.A.Haja Mohideen, learned Counsel for the respondent submits that he has no objection, if the petitioner pays the remaining amount of Rs.2,95,720/- due to the respondent by way of demand draft on or before the next date fixed, so that the matter may be settled. He also submits that an amount of Rs.4,43,580/- has already been withdrawn by the respondent, which was deposited by the petitioner before the trial Court.

6.Accordingly, after considering the arguments as advanced by



CrI.RC(MD).No.1048 of 2024

the learned Counsel for the petitioner that the petitioner is ready to settle the remaining amount of Rs.2,95,720/- to the respondent, this Court grants three weeks and no more time to the petitioner to pay the aforesaid amount ie., Rs.2,95,720/-, to the respondent by way of Demand Draft, without fail. The learned Counsel for the petitioner as well as the respondent are directed to file a compromise memo in this regard. The respondent is permitted to file an application before the trial Court for withdrawal of deposited amount, if already not withdrawn, before the trial Court, within ten days from today and if any such application is filed by the respondent within the time stipulated by this Court, the trial Court is directed to disburse the amount to the respondent within a period of one week thereafter.

7.Put up this case “for orders” on 16.10.2025 before the appropriate Bench. On that date, the petitioner as well as the respondents are directed to appear before this Court in person.”

13. On 16.10.2025 when the matter came up for consideration before this Court, the learned counsel for the Respondent/ complainant submitted that the Respondent/ complainant had withdrawn the total amount of Rs.4,43,580/-, deposited by the Revision Petitioner/ accused in STC.No. 137 of 2018 and thus, the balance amount to be paid is Rs.2,95,720/-. At the request of the learned counsel for the Revision Petitioner/ accused to grant some more time to deposit the said sum, this Court had passed the following order, adjourning the matter to 30.10.2025:-

“1.Mr.V.Muthulakshmi, the learned counsel for the Petitioner submits that there is a financial stress on the Petitioner and



Crl.RC(MD).No.1048 of 2024

WEB COPY

hence, as per the order of this Court, dated 23.09.2025, a sum of Rs.2,95,720/- was not paid to the Respondent and therefore, she prays for further two weeks time to pay the said amount.

2. Ms.Pavithra, for Mr.Haja Mohideen, the learned counsel for the Respondent has no objection to the above said prayer made by the learned counsel for the Petitioner.

3. Accordingly, two weeks time and no further time is granted to the Petitioner to pay the said sum of Rs.2,95,720/- to the Respondent, in compliance of the order dated, 23.09.2025.

4. Put up this case on 30.10.2025 for orders, before the appropriate Bench. ”

14. Even on 30.10.2025, the learned counsel for the Petitioner had sought for an adjournment, for compliance of the orders, dated 23.09.2025 and 16.10.2025. Further, this Court, vide order, dated 30.10.2025, had passed the following order, adjourning the matter to 03.11.2025:-

1. “Ms.V.Muthulakshmi, learned counsel for the petitioner prays for an adjournment to make compliance of the order of this Court, dated 23.09.2025.

2.Mr.A.Haja Mohideen, learned counsel for the respondent has no objection to the aforesaid prayer made by the learned counsel for the petitioner.

3.Accordingly, as prayed for by the learned counsel for the petitioner, adjournment is allowed.

4.Put up this case 'for orders' on 03.11.2025 before the appropriate Bench.”



Crl.RC(MD).No.1048 of 2024

WEB COPY

15. Even when the matter is taken up for consideration today, it is stated by the learned counsel for the Revision Petitioner/ accused that the said orders, dated 23.09.2025 and 16.10.2025, directing the Revision Petitioner/ accused to deposit the balance amount of Rs.2,95,720/- to compound the offence, has not been complied with by the Revision Petitioner/ accused, as the Revision Petitioner/accused has no financial capacity to comply with the said order of this Court. Hence, the learned counsel for Revision Petitioner/ accused submits that she will argue the case, on merits and prays to dispose of this Criminal Revision Case, on merits. Accordingly, this Court is inclined to dispose of this Criminal Revision Case, on merits and in accordance with law.

16. Heard the learned counsel for the parties and perused the materials available on record.

17. According to the Revision Petitioner/Accused, there are contradictions in materials particulars in the evidence of the Prosecution witnesses and the evidence of the Prosecution witnesses is not corroborative in nature. The Respondent/ Complainant has not proved the alleged business transaction between them. The Respondent/ complainant had no capacity to lend such a huge amount. There is no proof that there was legally enforceable debt between the parties. The cheques in question,



Crl.RC(MD).No.1048 of 2024

WEB COPY

which were given for security purpose for the goods and articles sent by the Respondent/Complainant, were misused by the Respondent/Complainant. Both the courts below have committed errors in not appreciating the evidence in a proper manner and hence, the findings of the courts below are unreasonable and perverse and consequently, the Revision Petitioner/Accused is entitled for acquittal, by allowing this Criminal Revision Case.

18.On the other hand, it is the case of the Respondent/ Complainant that the amounts covered under the cheques in question being the value of the goods were not repaid by the Revision Petitioner/ Complainant. Since the accused has not denied the issuance of the cheques in question and also dishonour of the same, the impugned judgements of conviction and sentence of the courts below, drawing presumption under Section 139 of Negotiable Instruments Act in favour of the Respondent/Complainant and consequently, imposing impugned punishment, are justified and hence, no interference by this Court is required.

19.On perusal of the records, it is seen that before the Trial Court, PW.1 and PW.2 were examined and Ex.P1 to P5 were marked, on the side of the Respondent/Complainant. Neither any witness nor any document



Crl.RC(MD).No.1048 of 2024

WEB COPY

was marked on the side of the Revision Petitioner/Accused. PW.1 is the Respondent/Complainant and PW.2 is a known person to both the parties. Ex.P1 and P3 are the cheques in question.

20.Both the courts below have found that the Revision Petitioner/ accused has not let in any evidence whatsoever to discard the testimony of PW.1 and PW.2 and that if really the cheques in question, which were given as security for the goods and articles sent by the Respondent/complainant, were misused by the Respondent/complainant, the Revision Petitioner/Accused ought to have filed a police complaint, but he failed to do so.

21.Both the courts below have further found that once the Revision Petitioner/ accused had admitted the issuance of cheques in question and since the Respondent/complainant had also proved the execution of the cheques in question, by valid evidence, the presumption under Section 139 of the Negotiable Instruments Act would arise in favour of the complainant, as the Revision Petitioner/ accused has failed to rebut the presumption under Section 139 of the Negotiable Instruments Act, by letting in valid and convincing evidence.

22.Both the courts below have held that there is no contra evidence on the side of the Revision Petitioner/accused to show that the cheques in



Crl.RC(MD).No.1048 of 2024

WEB COPY

question were misused by the complainant and that there is convincing evidence let in by the Respondent/Complainant that the cheques in question were issued by the Respondent/ Complainant. Further, the dishonour of the cheque in question is also not denied by the Revision Petitioner/accused. Consequently, both the courts below have rightly held that the cheques in question were drawn to discharge the legally enforceable debt as per Section 139 of the Negotiable Instruments Act and hence, the accused/ Revision Petitioner was found guilty of the offence under Section 138 of the Negotiable Instruments Act and accordingly, by the impugned judgements of conviction and sentence of the courts below, convicted and sentenced the Revision Petitioner/accused for the offence under Section 138 of the Negotiable Instruments Act to undergo one year Simple Imprisonment and to pay a compensation of Rs.7,39,300/- being the cheque amount, in default to undergo three months Simple Imprisonment.

23. Admittedly, the Revision Petitioner/ accused did not choose to let in any evidence, whatsoever before the Trial Court. Even before this Court, apart from not complying with the earlier orders of this Court, as stated above, the learned counsel for the Revision Petitioner/Accused is not able to point out any single piece of evidence, both oral and



Crl.RC(MD).No.1048 of 2024

WEB COPY

documentary, in support of his contentions. But, on the side of the Respondent/Complainant, this Court finds that there are ample evidence in support of the case of the Respondent/Complainant, as discussed by the courts below. The Revision Petitioner/ accused has not denied the issuance of the cheques in question and also dishonour of the same. The Revision Petitioner/ accused failed to rebut the presumption under Section 139 of the Negotiable Instruments Act. Thus, this court, while concurring with the findings of both the courts below, does not find any error or illegality or perversity in the findings of the impugned judgements of conviction and sentence of both the courts below, which warrants interference by this Court and accordingly, this Criminal Revision Case, is liable to be dismissed.

24. In the result, in view of the above said discussions and reasons, this Criminal Revision Case is dismissed. Consequently, the connected Criminal Miscellaneous Petition is also dismissed. There is no order as to costs. The File is consigned to record.

25. Let a copy of this order be sent by the Registry to the concerned Trial Court, within two weeks from today, for necessary compliance and information, to be kept in the file of the Trial Court record.



WEB COPY



Crl.RC(MD).No.1048 of 2024

03.11.2025

2/2

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation
Srcm

To

1. I Additional District and Sessions Judge (PCR) Thanjavur.
2. The Judicial Magistrate, Thiruvaiyaru, Thanjavur, District
3. The Additional Public Prosecutor, Madurai Bench of the Madras High Court, Madurai.



WEB COPY



Crl.RC(MD).No.1048 of 2024

SHAMIM AHMED, J.

Srcm

Crl.RC(MD).No.1048 of 2024

2/2

03.11.2025