



CrI.RC(MD).No.1323 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

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CrI.MP(MD)Nos.14219 and 14221 of 2025

Rajinesh @ Chenthil, S/o.Rajan Nadar
D.No. 41A1, Kattayan Vilai, Veturnimadam
Nagercoil. (Vadasery Police Limits)

Revision Petitioner

Vs

1. Sheeba Arun, W/o. Late. Arun Sundar,
No.10/11, Parama Street, W.C.C.Road,
Nagercoil, (Vadasery Police Limits)

2. The State of Tamil Nadu, by the Public Prosecutor
Kanyakumari District, at Nagercoil.

Respondents

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 and order, dated 14.08.2025, passed in CA.No.125 of 2018, by the District and Sessions Court, FTC, Kanyakumari at Nagercoil, confirming the judgement of conviction and sentence and order, dated 23.11.2017, passed in CC.No.18 of 2013, by the Judicial Magistrate Court, FTC No.I, Kanyakumari at Nagercoil and to set aside the same.



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For Revision Petitioner : Mr.T.Selvan

For Respondents : Mr.A.S.Abdul Kalam Azaad,
Government Advocate (Criminal Side)-R2

ORDER

1. When this Criminal Revision Case, along with the application for suspension of sentence, came up for admission on an earlier occasion on 14.10.2025 before this Court, on the undertaking given by the Revision Petitioner/Accused that for considering the application for suspension of sentence, he would deposit 50% of the compensation, as ordered by the courts below, within two weeks from that date, the matter was ordered to be listed today, giving two weeks time to the Revision Petitioner/Accused to deposit the said amount. When the matter is taken up for consideration today, it is stated by the learned counsel for the Revision Petitioner that the said order dated 14.10.2025 has not been complied with by the Revision Petitioner/ accused and that the Revision Petitioner/ accused has no financial capacity to comply with the said order of this Court. Hence, this Criminal Revision Case is taken up for final disposal, on merits.
2. This Criminal Revision Case is filed against the Judgement of conviction and sentence and order, dated 14.08.2025, passed in CA.No.



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125 of 2018, by the District and Sessions Court, FTC, Kanyakumari at Nagercoil, confirming the judgement of conviction and sentence and order, dated 23.11.2017, passed in CC.No.18 of 2013, by the Judicial Magistrate Court, FTC No.I, Kanyakumari at Nagercoil.

3. The facts of the case, in a nutshell, as seen from the materials available on record, are that the Revision Petitioner/ accused had borrowed a sum of Rs.7,00,000/- from the 1st Respondent/Complainant, on 30.12.2021, for which, on the same day, the Revision Petitioner/ accused had issued a post dated cheque, dated 15.11.2012, drawn on Axis Bank, Nagercoil Branch, for the said sum. When the said cheque was presented for encashment on 16.11.2012, it was dishonoured for the reason “Account closed”, with a memo dated 17.11.2012. Hence, the 1st Respondent/ Complainant had filed a complaint in CC.No.18 of 2013 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.
4. After completion of trial, by the impugned judgement of conviction and sentence and order, the Trial Court, drawing a legal presumption under Section 139 of the Negotiable Instruments Act that the cheque in question was drawn to discharge the legally enforceable debt and that the Revision Petitioner/ accused has not rebutted the presumption under



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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 six months Simple Imprisonment and to pay a compensation of Rs.7,00,000/-, in default, to undergo one month 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 and order of the Trial Court, by the accused, on the same lines. Hence, this Criminal Revision Case has been filed by the Revision Petitioner/accused.

5. This Court heard Mr.T.Selvan, the learned counsel for the Revision Petitioner and Mr.A.S.Abdul Kalam Azaad, the learned counsel for the 2nd Respondent and considered their submissions and also perused the entire materials placed on record.
6. According to the Revision Petitioner/Accused, the 1st Respondent/Complainant has not proved the transaction between them and also the source to pay such a huge amount. There is no proof that the 1st Respondent/Complainant had paid such huge amount to the accused. The Revision Petitioner/accused had only borrowed a sum of Rs. 2,00,000/-, for which, the cheque in question was given by him to the



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1st Respondent/ complainant and the said amount was also repaid.

However, the cheque in question was not returned back, but misused by the 1st Respondent/Complainant. The date and the amount in the cheque in question were not written by the Revision Petitioner/ accused. 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 accused is entitled for acquittal, by allowing this Criminal Revision Case.

7. On the other hand, it was the case of the 1st Respondent/ Complainant that the cheque amount borrowed by the Revision Petitioner/ Complainant was not repaid and that once the accused has not denied the signature in the cheque in question and the cheque in question was held to be drawn from his Bank Account, the impugned judgements of conviction and sentence and order of the courts below, drawing presumption under Section 139 of Negotiable Instruments Act in favour of the complainant and consequently, imposing impugned punishment, are justified and hence, no interference by this Court is required.

8. The learned Government Advocate for the 2nd Respondent has also made submissions, in support of the 1st Respondent/ complainant.

9. On perusal of the records, it is seen that before the Trial Court, PW.1



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and PW.2 were examined and Ex.P1 to P10 were marked, on the side of the 1st Respondent/Complainant and DW.1 to DW.3 were examined and Ex.D1 to D8 were marked, on the side of the Revision Petitioner/accused. PW.1 is the 1st Respondent/Complainant and DW.3 is the Revision Petitioner/accused. Ex.P1 is the cheque in question.

10.Both the courts below have found that nowhere the Revision Petitioner/accused has denied the signature found in the cheque in question and that the cheque in question was drawn on his Bank Account and that the accused has not proved that the cheque in question, which was given only for borrowal of Rs.2,00,000/-, was misused by the complainant, though the said sum was repaid by him, by letting in valid evidence, both oral and documentary and that Revision Petitioner/accused has failed to rebut the presumption under Section 139 of the Negotiable Instruments Act, by letting in valid and convincing evidence. Consequently, both the courts below, in the absence of contra evidence on the side of the accused to show that the cheque in question was misused by the complainant and that it was issued only for borrowal of a sum of Rs.2,00,000/-, which was also repaid and in the light of the concrete evidence let in by the 1st Respondent/Complainant that as the Revision Petitioner/Accused did not deny the signature found in the



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cheque in question, the signature found in the cheque in question is that of the accused and that the cheque in question was drawn from the Bank Account of the accused, have rightly held that the cheque in question was 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 accused for the offence under Section 138 of the Negotiable Instruments Act to undergo six months Simple Imprisonment and to pay a compensation of Rs.7,00,000/- being the cheque amount, in default to undergo two months Simple Imprisonment.

11. Even before this Court, apart from not complying with the earlier order of this Court, dated 14.10.2025, directing the Revision Petitioner/Accused to deposit 50% of the compensation, as ordered by the courts below, the learned counsel for the Revision Petitioner/Accused is not able to point out any single piece of evidence, both oral and documentary, in support of his contentions. But, on the side of the 1st Respondent/Complainant, this Court finds that there are ample evidence in support of the case of the 1st



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Respondent/Complainant, as discussed by the courts below, nowhere, the Revision Petitioner/ accused has denied the signature found in the cheque in question and that the Revision Petitioner/ accused failed to rebut the presumption under Section 139 of the Negotiable Instruments Act and drawing the cheque in question from the Bank Account of the Revision Petitioner/accused. 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 and orders of both the courts below, which warrants interference by this Court and accordingly, this Criminal Revision Case, is liable to be dismissed.

12.In the result, in view of the above said discussion and reasons, this Criminal Revision Case is dismissed. There is no order as to costs. Consequently, the connected Criminal Miscellaneous Petitions are closed. The File is consigned to record.

29.10.2025

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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To

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1. The District and Sessions Court, FTC, Kanyakumari at Nagercoil.
2. The Judicial Magistrate Court, FTC No.I, Kanyakumari at Nagercoil.
3. The Additional Public Prosecutor, Madurai Bench of the Madras High Court, Madurai.



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SHAMIM AHMED, J.

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