



Crl.R.C.(MD)No.226 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.04.2025

Pronounced on : 20.06.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.226 of 2023

J.Iqbal

... Petitioner/
Appellant/
Accused

Vs.

Azhagarsamy

... Respondent/
Respondent/
Complainant

Prayer : This Criminal Revision Case filed under Section 397 & 401 Cr.P.C., to call for the records pertaining to the order passed in Crl.A.No. 35 of 2021 on the file of the learned III Additional District and Sessions Court, Pattukottai, Thanjavur District dated 12.09.2022 confirming the judgment passed in S.T.C.No.52 of 2013 on the file of the learned Fast Track Court (Magisterial Level), Pattukottai, Thanjavur District dated 16.03.2021 and set aside the same.



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For Petitioner : Mr.A.Vadivel

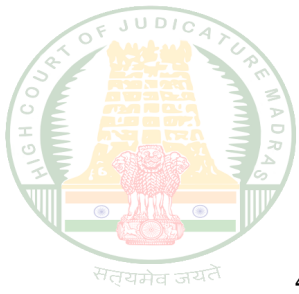
For Respondent : Mr.D.R.Murugesan

ORDER

The Criminal Revision is directed against the concurrent judgments of conviction passed in Crl.A.No.35 of 2021 dated 12.09.2022 on the file of the III Additional District and Sessions Court, Thanjavur @ Pattukkottai, confirming the judgment made in S.T.C.No.52 of 2013 dated 16.03.2021 on the file of the Court of the Fast Track (Magisterial Level), Pattukkottai.

2. The revision petitioner is the accused. The respondent/complainant filed a private complaint under Section 200 Cr.P.C. against the revision petitioner/accused for the offence under Section 138 r/w 142 of the Negotiable Instruments Act.

3. For the sake of convenience and brevity, the parties hereinafter will be referred as per their status / ranking before the trial Court.



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4. The case of the complainant is that the accused, who was known to the complainant earlier, approached the complainant and requested for a loan of Rs.10 lakhs for his business purposes, that the complainant advanced the loan amount of Rs.10 lakhs to the accused on 05.01.2013 and the accused received the loan amount agreeing to repay the same within a month, that the accused has also issued cheque dated 08.02.2013 drawn on the Union Bank of India, Udaiyanadu Branch for Rs.10 lakhs to the complainant, that the complainant presented the cheque for collection on 08.02.2013 through his bankers Indian Overseas Bank, Pookkollai Branch, that the cheque was returned for want of sufficient funds in the bank account of the accused, that the complainant has then sent a legal notice dated 02.03.2013 to the accused demanding the amount covered by the cheque, that the accused having received the notice on 09.03.2013 sent a reply notice dated 13.03.2013 with false and untenable allegations and that since the accused has failed to pay the amount as demanded in the legal notice within the stipulated period, the complainant was constrained to lodge the complaint.

5. During trial, the complainant has examined himself as P.W.1 and



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exhibited 7 documents as Ex.P.1 to Ex.P.7. The accused has adduced neither oral nor documentary evidence.

6. The learned Magistrate has passed a judgment acquitting the accused on 24.07.2014. Challenging the acquittal judgment, the complainant preferred an appeal in Crl.A.(MD)No.302 of 2014 before this Court and subsequently the appeal was transferred to the file of the III Additional District and Sessions Court, Thanjavur @ Pattukkottai. The learned Additional District Judge has passed a judgment on 30.09.2019 remitting the case back to the learned Magistrate with certain directions. In pursuance of the said directions, the cheque in dispute and the cheque deposit slip were sent to the Regional Forensic Science Laboratory, Madurai through the Advocate Commissioner and a report came to be received. The Assistant Director and Document Expert attached to the Regional Forensic Science Laboratory, Madurai came to be examined as C.W.1 and his report came to be exhibited as Ex.C.1. The learned Judicial Magistrate, upon considering the evidence and on hearing the arguments of both the sides, has passed a judgment dated 16.03.2021 convicting the accused for the offence under Section 138 of the Negotiable Instruments

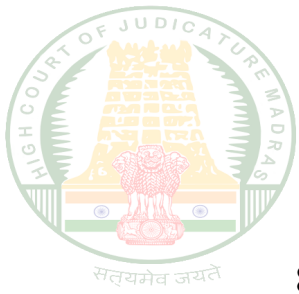


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Act and sentenced him to undergo one year simple imprisonment and to pay compensation of Rs.10,00,000/- (Rupees Ten Lakhs only) under Section 357 Cr.P.C. within a period of one month, in default, to undergo three months simple imprisonment. Aggrieved by the said judgment of conviction and sentence, the accused preferred an appeal in Crl.A.No.35 of 2021 and the learned III Additional District and Sessions Judge, Thanjavur @ Pattukkottai, on perusing the records and on hearing the arguments of both the sides, has passed the impugned judgment dated 12.09.2022 dismissing the appeal and thereby confirming the judgment of conviction and sentence passed in S.T.C.No.52 of 2013 dated 16.03.2021 by the learned Judicial Magistrate, Fast Track Court, Pattukkottai. Not satisfying with the appellate Court judgment, the accused has filed the present criminal revision.

7. Whether the concurrent judgments of conviction passed in Crl.A.No.35 of 2021 dated 12.09.2022 on the file of the III Additional District and Sessions Court, Thanjavur @ Pattukkottai, confirming the judgment made in S.T.C.No.52 of 2013 dated 16.03.2021 on the file of the Fast Track Court (Magisterial Level), Pattukkottai, is liable to be set aside? is the point for consideration.

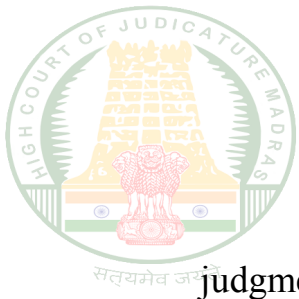


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8. The learned counsel appearing for the accused would submit that the Courts below misappreciated facts and misapplied Sections 118 and 139 of the Negotiable Instruments Act. The courts incorrectly inferred liability based solely on the accused's signature. The learned counsel would emphasize that the complainant failed to provide evidence demonstrating his financial capacity to lend such a substantial amount.

9. The learned counsel appearing for the accused would submit that the Courts below, without seeking any corroboration for the evidence of the complainant, mechanically rendered findings against the accused and convicted him. He would further submit that the Courts below have failed to consider the material aspects that the cheques including the disputed cheque and promissory notes came to be issued to the complainant for security purposes, that though the accused has repaid the loan amount of Rs.2 lakhs, the complainant refused to return the cheques and promissory notes, that since the accused stopped his coconut business transaction with the complainant, to take personal vengeance the complainant had filled up the cheque for Rs.10 lakhs and filed the above case and also set up another person and filed another cheque dishonor case and that therefore, the



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judgments of conviction of the Courts below are not legal and are liable to be interfered with.

10. The learned counsel appearing for the complainant would submit that the accused himself admitted the issuance of cheque and the signatures found therein, that the accused has also admitted the existence of legally enforceable debt with the complainant, that the Courts below, considering the evidence available on record, have rightly raised the statutory presumptions under Sections 118 and 139 of the Negotiable Instruments Act but the accused has failed to produce any iota of evidence to rebut the statutory presumptions and that therefore, there is nothing to interfere with the judgments of the Courts below.

11. At the outset, it is pertinent to note that the accused has taken a stand earlier that the complainant is a coconut merchant and the accused, who is owning coconut groves, used to supply coconuts to the complainant and there existed business transactions between them. It is the further case of the accused that the accused borrowed a sum of Rs.2 lakhs from the complainant and at that time, he issued 3 signed blank cheque

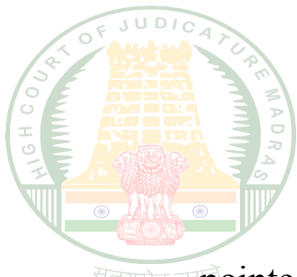


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leaves, 2 signed promissory notes and signed blank papers as a security, that though the accused regularly paid the interest for 2½ years, interest amount was subsequently adjusted towards the coconut price, that when the complainant demanded the entire principal amount, the accused was unable to settle the same at that time and as a result of which, there arose problems between them and that the accused stopped the coconuts supply to the complainant and due to that enmity, the complainant utilizing the blank cheque filed the above complaint and also set up one Manimuthu and filed another complaint through him.

12. As rightly pointed out by the learned counsel appearing for the complainant, the accused, in the proceedings under Section 313(1)(b) Cr.P.C. held on 13.03.2014, has reiterated the above contentions but when he was examined again under Section 313(1)(b) Cr.P.C. on 11.01.2021, he would admit the issuance of cheque and the existence of business transactions between them. The accused would further say that though he settled the amount, failed to get back the cheque and that since there arose some disputes between his brother and the complainant, the complainant filled up the cheque fraudulently and filed the above case. As already



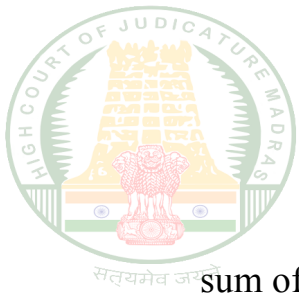
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pointed out, the accused has not chosen to adduce any evidence.

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13. Though the accused has taken a belated stand that he discharged the loan amount, he has not produced any iota of materials to substantiate the same.

14. The accused has also taken a stand that the complainant is not having necessary capacity to advance such huge loan amount. The Hon'ble Supreme Court recently in the case of *Ashok Singh Vs. State of Uttar Pradesh and another* reported in **2025 LiveLaw (SC) 383** has reaffirmed the legal position that once the drawer admits to signing the cheque, the presumption under Section 139 of the Negotiable Instruments Act cannot be rebutted merely by questioning the complainant's debt-giving capacity. It is settled law that the onus is not on the complainant at the threshold to prove his capacity/financial wherewithal to make the payment in discharge of which the cheque is alleged to have been issued in his favour. In the case on hand, as already pointed out, the accused himself admitted that the complainant is doing coconut business and there existed business transactions between them. Even according to the accused, he borrowed a



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sum of Rs.2 lakhs from the complainant but only disputed the present case
borrowal.

15. As already pointed out, the learned counsel appearing for the accused has taken a stand that the cheque in dispute was given only as a security for the transactions that existed between the parties. The Hon'ble Supreme Court has settled the legal position that the dishonor of cheque issued as a security can also attract offence under Section 138 of the Negotiable Instruments Act.

16. The learned counsel appearing for the accused would rely on the evidence of C.W.1-handwriting expert and the report under Ex.C.1 and argue that the contents of the disputed cheque came to be filled up by the complainant. No doubt, C.W.1 has given his opinion that the handwriting available in Ex.P.2-cheque deposit slip is matching with the signature available in Ex.P.1-cheque.

17. In a similar case, the Hon'ble Supreme Court in ***K.Ramesh Vs. K. Kothandaraman***, reported in ***2024 LiveLaw SC 145***, where the accused



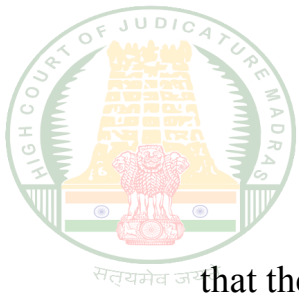
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had signed the cheque but disputed the age of the ink used in the signature and the contents of the cheque, sought a forensic opinion to compare the same. The Hon'ble Supreme Court, following its earlier decision in ***Bir Singh Vs. Mukesh Kumar***, reported in **2019 (4) SCC 197**, concluded that the application filed by the accused before the trial Court was wholly frivolous and that the trial Court had rightly rejected the petition.

18. As the learned counsel appearing for the complainant rightly contended, Section 20 of the Negotiable Instruments Act empowers a holder in due course to complete an inchoate instrument. Given the petitioner's admission of entrusting signed blank cheques and promissory notes, the complainant is entitled to fill them up. Hence, the objections of the accused are devoid of substance and are liable to be rejected.

19. The learned trial Judge as well as the learned appellate Judge, considering the evidence and the materials available on record, have rightly drawn the presumption under Section 139 of the Negotiable Instruments Act but the accused has miserably failed to rebut the presumption and on that basis, the Courts below have recorded a finding



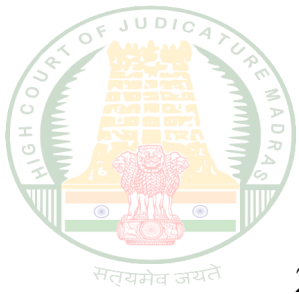
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that the complainant has clearly proved his case.

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20. As already pointed out, there is concurrent verdict of conviction and sentence against the accused. At the outset, it is pertinent to note that the jurisdiction under Sections 397 and 401 Cr.P.C., is confined to legality, propriety and correctness of the concurrent findings of conviction entered and sentence imposed on the accused. The revisional jurisdiction exercised by the High Court is supervisory jurisdiction for correcting miscarriage of justice. But at the same time, the revisional power cannot be equated with the power of an appellate Court nor it can be treated as a second appellate jurisdiction.

21. The Hon'ble Supreme Court in ***K.Chinnaswamy Reddy Vs. State of Andhra Pradesh*** reported in ***1962 AIR 1788***, has held that the revisional jurisdiction should be exercised by the High Court in exceptional cases only when there is some glaring defect in the procedure or a manifest error on a point of law resulting in flagrant miscarriage of justice.

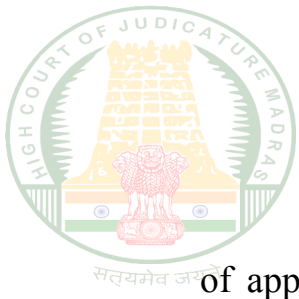


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22. In ***Duli Chand vs Delhi Administration*** reported in (1975) 4 SCC 649, the Hon'ble Apex Court reminded that jurisdiction of the High Court in Criminal Revision is severely restricted and it cannot embark upon a re-appreciation of the evidence and while exercising the supervisory jurisdiction in revision, the Court would be justified in refusing to re-appreciate the evidence for determining whether the concurrent finding of fact reached by the learned Magistrate and the learned Additional Sessions Judge was correct.

23. It is pertinent to note that the revisional power under Cr.P.C., cannot be exercised in a routine and casual manner and while exercising such powers, the High Court has no authority to appreciate the evidence in the manner as the trial and the appellate Courts are required to do. The powers under Sections 397 and 401 Cr.P.C., are required to be exercised sparingly. In the matter of judicial review in criminal revision, this Court is of the view that this Court does not sit in appeal, but the scope is very limited and it is a supervisory jurisdiction, which is exercised by the Court to correct manifest error in the orders of Subordinate Courts, but should not be exercised in a manner so as to turn the Revisional Court in a Court



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of appeal. No doubt, there is absolutely no scope for re-appreciation of evidence once again, but at the same time, if the appreciation of evidence is tainted with the perversity, that can be interfered with. Even if an alternative view is possible, this Court cannot substitute its own view, in lieu of the concurrent views of the Courts below.

24. Considering the above and on applying the legal position above discussed, this Court is of the clear view that there is nothing to show that the Courts below have failed to consider any material evidence in favour of the accused or have not appreciated the evidence. Hence, this Court decides that there is no illegality or perversity in the impugned judgment of conviction and sentence passed by the trial Court, which was confirmed by the appellate Court and no ground has been made out for interference in the revisional jurisdiction.

25. As already pointed out, the trial Court has imposed punishment of one year simple imprisonment and compensation of Rs.10 lakhs being the cheque amount. Considering the above facts and circumstances and the reasonings given by the Courts below, this Court is not inclined to



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interfere with the punishment awarded. Hence, this Court concludes that the revision is absolutely devoid of merits and the same is liable to be dismissed.

26. In the result, this Criminal Revision Case stands dismissed. The learned Judicial Magistrate, Fast Track Court (Magisterial Level), Pattukkottai, is directed to take steps to secure the revision petitioner/accused to undergo the remaining period of sentence, if any.

20.06.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

- 1.The III Additional District and Sessions Judge,
Thanjavur @ Pattukkottai.
- 2.The Judicial Magistrate,
Fast Track Court (Magisterial Level),
Pattukkottai.



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K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
Crl.R.C.(MD)No.226 of 2023

Dated : 20.06.2025