



CRL.R.C.(MD)No.1346 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.11.2025

CORAM

THE HONOURABLE MR.JUSTICE **SHAMIM AHMED**

CRL.R.C.(MD)No.1346 of 2025

and

CrI.M.P.(MD) No.14773 of 2025

T.Udayakumar
S/o. Thangaswamy Nadar
No. 22/225
Vattavilai
Edalakudy Post
Kanyakumari District.

... Petitioner

vs.

G.Kalyanasundaram
S/o. Ganapathy, No.3/135
Ariyaperumal Colony
Puthalam Post
Kanyakumari District.

... Respondents

PRAYER: Criminal Revision Petition is filed under Section 483 r/w 442 of BNSS, 2023, to call for the records pertaining to the judgment dated 05.08.2025 passed in CrI.A. No. 20 of 2019 on the file of the Sessions Fast Track Mahila Court, Kanyakumari at Nagercoil confirming the Judgment dated 04.01.2019 passed in S.T.C. No. 842 of 2018 on the file of the Fast Track Court (Magistrate Level), Nagercoil and set aside the same.



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For Petitioner :Mr.S.Alagu Sundar

ORDER

This Criminal Revision Case is filed against the judgement made in Crl.A.No.20 of 2019, dated 05.08.2025, on the file of the Sessions Fast Track Mahila Court, Kanyakumari at Nagercoil, confirming the judgement dated 04.01.2019, made in STC.No.842 of 2018 on the file of the Fast Track Court, (Magistrate Level), Nagercoil.

2.The facts of the case in a nutshell, led to filing of this Criminal Revision Case and necessary for disposal of the same, are as follows:-

a) The Revision Petitioner is the accused and the Respondent is the Complainant. It is alleged that the Revision Petitioner/Accused had borrowed a sum of Rs.1,20,000/- from the Respondent/Complainant on 12.12.2012, promising to repay the said amount within one month and the Revision Petitioner/Accused had also issued a Cheque bearing No. 386532, dated 04.03.2013, drawn on Tamil Nadu Mercantile Bank, Edalakudy Branch, in favour of the Respondent/Complainant. When the Cheque was presented by the Respondent/Complainant for encashment



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on 16.03.2013, the same was returned with an endorsement “Funds Insufficient”. Hence, the Respondent/Complainant had issued a statutory notice through his Advocate on 10.04.2013, to the Revision Petitioner/Accused, demanding repayment of the amount covered by the cheque. The Revision Petitioner/Accused has received the said notice and sent a reply on 30.04.2013. Thereafter, the Respondent/Complainant had filed a complaint in STC.No.842 of 2018 before the Trial Court, against the Revision Petitioner/Accused, for the offence under Section 138 of the Negotiable Instruments Act, for recovery of the cheque amount.

b) After completion of trial, by the impugned judgement of conviction and sentence, the Trial Court, found that the Revision Petitioner/Accused had not denied the issuance of the cheque in question, the signature found in the cheque in question and also dishonour of the same and that as the Revision Petitioner/Accused has not rebutted the presumption under Section 139 of the Negotiable Instruments Act, by letting in valid evidence, had convicted and sentenced the Revision Petitioner/Accused for the offence under Section 138 of the Negotiable Instruments Act, to undergo six months Simple Imprisonment and to pay



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a compensation of Rs.1,20,000/-. The lower appellate court, by its impugned judgement, dated 05.08.2025, by confirming the conviction and sentence, had dismissed the appeal. Hence, this Criminal Revision Case has been filed by the Revision Petitioner/Accused.

3.On 17.10.2025, when the matter came up for consideration, this Court in CrI.M.P.(MD) No.14773 of 2025 in CrI.R.C.(MD) No.1346 of 2025 had passed the following order:-

“The Criminal Miscellaneous Petition is filed to suspend the sentence imposed in S.T.C. No. 842 of 2018 on the file of the Fast Track Court, (Magisterial Level), Nagercoil, dated 04.01.2019, which was confirmed in CrI.A. No. 20 of 2019 on the file of the Sessions Fast Track Mahila Court, Kanyakumari at Nagercoil, dated 05.08.2025.

2.The Criminal Revision Petition has been filed against the judgment dated 05.08.2025 passed in CrI.A.No. 20 of 2019 on the file of the Sessions Fast Track Mahila Court, Kanyakumari at Nagercoil, confirming the Judgement dated 04.01.2019 passed in S.T.C. No. 842 of 2018 on the file of the Fast Track Court, (Magisterial Level), Nagercoil, whereby the Trial Court convicted and sentenced the Revision Petitioner for the offence under Section 138 of Negotiable Instruments Act, to undergo simple imprisonment for six months and to pay a



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compensation of Rs.1,20,000/- (Rupees One Lakh and Twenty Thousand only) towards cheque amount to the Respondent, within two months in default of payment, to undergo simple imprisonment for one month and the same was confirmed by the lower Appellate Court vide order dated 05.08.2025. Challenging the above conviction and sentence, the Revision Petitioner has filed Criminal Revision Petition in Crl.RC(MD)No.1346 of 2025 along with the instant miscellaneous petition, seeking suspension of sentence and bail.

3.Heard Mr.S.Alagusundar, learned counsel appearing for the Petitioner.

4.When the matter is taken up for hearing, Mr.S.Alagusundar, learned counsel for the Revision Petitioner submits that the petitioner has already deposited a sum of Rs. 10,000/- before the Trial Court and now, the Revision Petitioner is ready to deposit further amount of Rs.50,000/- to the credit of S.T.C.No.842 of 2018, on the file of the Fast Track Court (Magisterial Level), Nagercoil, within two weeks from today, to show his bonafide and undertakes to produce the deposit receipt on or before the next date fixed by way of supplementary affidavit. Thus, he prays that some time be granted to deposit the said amount before the Trial Court.

5.Accordingly, as prayed for by the learned Counsel for the Revision Petitioner, this Court grants two weeks time to the



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Revision Petitioner to deposit further amount of Rs.50,000/- (Rupees Fifty Thousand only) to the credit of S.T.C.No.842 of 2018, on the file of the Fast Track Court (Magisterial Level), Nagercoil, apart from the amount already deposited before the Trial Court. The learned counsel is also directed to produce the deposit receipt before this Court by way of supplementary affidavit on the next date fixed.

6. Put up the case “For Orders” on 06.11.2025 for consideration of the application for suspension of sentence and for grant of bail to the petitioner, before appropriate bench.”

4. Thereafter, on 06.11.2025, when the matter came up for consideration, this Court in CrI.M.P.(MD) No.14773 of 2025 in CrI.R.C. (MD) No.1346 of 2025 had passed the following order:-

“The Criminal Miscellaneous Petition is filed to suspend the sentence imposed in S.T.C. No. 842 of 2018 on the file of the Fast Track Court, (Magisterial Level), Nagercoil, dated 04.01.2019, which was confirmed in CrI.A. No. 20 of 2019 on the file of the Sessions Fast Track Mahila Court, Kanyakumari at Nagercoil, dated 05.08.2025, whereby the Trial Court convicted and sentenced the Revision Petitioner for the offence under Section 138 of Negotiable Instruments Act, to undergo simple imprisonment for six months and to pay a compensation of Rs.1,20,000/-



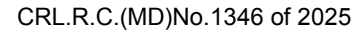
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(Rupees One Lakh and Twenty Thousand only) towards cheque amount to the Respondent, within two months in default of payment, to undergo simple imprisonment for one month.

2. When the matter was taken up on 17.10.2025, Mr.S.Alagusundar, learned counsel for the Revision Petitioner, submitted that the Revision Petitioner had already deposited Rs. 10,000/- before the Trial Court and was willing to deposit a further sum of Rs. 50,000/-. Thus, he prayed that this Court grant some time. Accordingly, by order dated 17.10.2025, this Court granted two weeks' time to the Revision Petitioner to deposit a further amount of Rs. 50,000/- before the Trial Court and to produce the deposit receipt by way of a supplementary affidavit before this Court today. Upon such deposit, his application for suspension of sentence would be considered.

3. Today, when the matter was taken up, Mr.S.Alagusundar, learned Counsel for the Revision Petitioner, was not present before this Court. Ms.Vidhya, learned Counsel representing Mr.S.Alagusundar, appeared before this Court and submitted that Mr.S.Alagusundar is out of station to argue a case before the Madras High Court and prayed for an adjournment.

4. Accordingly, as prayed for by the learned representing Counsel for the Revision Petitioner, ten days



5. Put up the case “for orders” on 20.11.2025 before this Court.”

6. According to the Revision Petitioner/Accused, the evidence of the Respondent/Complainant, PW.1 is not trustworthy and 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. 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.



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7. On perusal of the records, it is seen that before the Trial Court, the Respondent/Complainant was examined as PW.1 and Ex.P1 to P6 were marked, on the side of the Respondent/Complainant. On the side of the Revision Petitioner/Accused, no witness was examined and no exhibit was also marked.

8. It is seen from the records that the matter is one under Section 138 of the Negotiable Instruments Act and the cheque amount involved in this case is Rs.1,20,000/-. By the detailed impugned judgement of conviction and sentence, the Trial Court had allowed the complaint of the Respondent/Complainant, imposing punishment, as stated above. Thereafter, the Revision Petitioner/Accused had filed the appeal before the lower appellate court and the lower appellate court, by confirming the judgment of the trial Court, dated 04.01.2019, vide judgement, dated 05.08.2025, had dismissed the appeal.

9. The main grounds raised by the learned counsel for the Revision Petitioner/Accused in the present Criminal Revision Case are that the Respondent/Complainant failed to establish that the Cheque was issued



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for legally enforceable debt and the same was not considered by both the trial Court as well as the lower appellate Court and the fact that the Respondent/Complainant has no capacity to lend a sum of Rs.1,20,000/- to the Revision Petitioner/Accused has also not been considered properly by both the Courts below.

10.The Trial Court had held that the Revision Petitioner/Accused is failed to prove the facts put forth before P.W1 cross-examination and thereby, he is failed to rebut the presumption which stands in favour of the Respondent/Complainant. The Revision Petitioner/Accused has not raised any defences which probabilise the case of the Respondent/Complainant and the Respondent/Complainant is succeeded in proving his case beyond all reasonable doubt.

11.The Trial Court had also further found that once the Revision Petitioner/Accused has not denied the issuance of the cheque in question, the signature found in the cheque in question and also dishonour of the same and since the Respondent/complainant had also proved the execution of the cheque in question, by valid evidence, the presumption



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under Section 139 of the Negotiable Instruments Act would arise in favour of the Respondent/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.

12.Consequently, the Trial Court had 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 Revision Petitioner/Accused was found guilty of the offence under Section 138 of the Negotiable Instruments Act and accordingly, the Trial Court, by the impugned judgement of conviction and sentence, had rightly convicted and sentenced the Revision Petitioner/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.1,20,000/-.

13.Admittedly, the Revision Petitioner/Accused did not choose to let in any valid and concrete 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



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Petitioner/Accused is not able to point out any single piece of evidence, both oral and documentary. 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 cheque in question, the signature found on the cheque 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 does not find any error or illegality or perversity in the findings in the impugned judgements of conviction and sentence of the Trial Court, which warrants interference by this Court and accordingly, this Criminal Revision Case, is liable to be dismissed.

14.Further, though it is stated by the learned counsel for the Revision Petitioner/Accused that the appeal was dismissed by the lower appellate court, without properly appreciating the facts on record, this Court finds merits in this case in favour of the Respondent/Complainant that the Revision Petitioner/Accused has not denied his signature on the



cheque, bearing No.386532, dated 04.03.2013 drawn on Tamil Nadu Mercantile Bank, Edalakudy Branch, issued by the Revision Petitioner/Accused, in favour of the Respondent/Complainant towards the discharge of liability to the tune of Rs.1,20,000/-. Further, issuance of the cheque in question and dishonour of the same are also not denied by the Revision Petitioner/Accused.

15.In the case of **Rangappa vs. Sri Mohan, reported in (2010) 11 SCC 441**, the Hon'ble Supreme Court held that once the accused admits his signature in the cheque, then the presumption comes into play in favour of the complainant. The relevant portion of the said judgement is extracted as under:-

“15. Coming back to the facts in the present case, we are in agreement with the High Court's view that the accused did not raise a probable defence. As noted earlier, the defence of the loss of a blank cheque was taken up belatedly and the accused had mentioned a different date in the 'stop payment' instructions to his bank. Furthermore, the instructions to 'stop payment' had not even mentioned that the cheque had been lost. A perusal of the trial record also shows that the accused appeared to be aware of the fact that the cheque was



with the complainant. Furthermore, the very fact that the accused had failed to reply to the statutory notice under Section 138 of the Act leads to the inference that there was merit in the complainant's version. Apart from not raising a probable defence, the appellant-accused was not able to contest the existence of a legally enforceable debt or liability. The fact that the accused had made regular payments to the complainant in relation to the construction of his house does not preclude the possibility of the complainant having spent his own money for the same purpose. As per the record of the case, there was a slight discrepancy in the complainant's version, in so far as it was not clear whether the accused had asked for a hand loan to meet the construction-related expenses or whether the complainant had incurred the said expenditure over a period of time. Either way, the complaint discloses the prima facie existence of a legally enforceable debt or liability since the complainant has maintained that his money was used for the construction-expenses. Since the accused did admit that the signature on the cheque was his, the statutory presumption comes into play and the same has not been rebutted even with regard to the materials submitted by the complainant.”



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16. In the judgement rendered by the Bombay High Court in the case of **Purushottam Maniklal Gandhi Versus Manohar K. Deshmukh and another, reported in 2007 STPL(DC) 988(BOM); 2007(4) BOMCR404**, it has been held that if a person hands over a duly signed blank cheque, thereby he gives an authority to the holder to put a date of his choice and to present the same for encashment. The cheque does not lose its sanctity merely due to the fact that the same has been filled in by some other person.

17. It is relevant to refer the judgement of Hon'ble Supreme Court reported in **AIR 2019 SC 2446, (Bir Singh Vs Mukesh Kumar)**, wherein the Hon'ble Supreme Court has held that the presumption as to legally enforceable debt, the rebuttal of signed blank cheque, if voluntarily presented to payee towards the payment, payee may fill up the amount and other particulars, that itself would not invalidate the cheque. The onus would still be on the accused to prove the cheque was not issued for discharge of debtor liability by adducing evidence.



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18.In view of the above said decisions, this Court is of the view that in this case, when the Revision Petitioner/Accused has not denied the issuance of the cheque in question, the signature found in the cheque in question and also dishonour of the same, the presumption under Section 139 of the Negotiable Instruments Act, comes into play in favour of the Respondent/Complainant. Accordingly, this Criminal Revision Case is liable to be dismissed.

19.Further, the Revision Petitioner/Accused has failed to comply with the conditions imposed by this Court in Crl.M.P.(MD) No.14773 of 2025 in Crl.R.C.(MD) No.1346 of 2025, vide order, dated 17.10.2025, for depositing a sum of Rs.50,000/-. This shows that the Revision Petitioner/Accused has no respect to the court orders and he is simply buying time and lingering the matter.

20.In the result, in view of the above said discussions and reasons and in the light of the decisions, referred to above, this Criminal Revision Case is **dismissed**. The impugned judgement made in Crl.A.No.20 of 2019, dated 05.08.2025, on the file of the Sessions Fast Track Mahila



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Court, Kanyakumari at Nagercoil, confirming the judgement dated 04.01.2019, made in STC.No.842 of 2018 on the file of the Fast Track Court, (Magistrate Level), Nagercoil is **confirmed**. Consequently, the connected Criminal Miscellaneous Petition is also **closed**. There is no order as to costs. The File is consigned to record.

21.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. The trial Court is directed to proceed in accordance with law.

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

20.11.2025

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To

- 1.The Judge, Sessions Fast Track Mahila Court, Kanyakumari at Nagercoil.
- 2.The Judge, Fast Track Court (Magistrate Level), Nagercoil.

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SHAMIM AHMED, J.

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