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Crl.R.C.No.174 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2026

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.174 of 2023

D. Venkataraman

... Petitioner

Vs.

A. Kirupakaran

... Respondent

Prayer: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, 1973, to set aside the order in Crl.A.No.402 of 2019 passed by the VII-Additional Sessions Court, Chennai dated 17.10.2022 confirming the judgment of the IV Metropolitan Magistrate Court, Fast Track Court, George Town, Chennai – 01, in C.C.No.1363 of 2017 dated 30.10.2019.

For Petitioner : Mr.C.Venkatesan
For Respondent : Mr.R.Raghuraj
Legal Aid Counsel
Mr.P.Anbazhagan

ORDER



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The revision challenges the judgment dated 17.10.2022 passed in Crl.A.No.402 of 2019 on the file of the VII-Additional District and Sessions Court at Chennai, confirming the judgment dated 30.10.2019 passed in C.C.No.1363 of 2017, on the file of the IV-Metropolitan Magistrate Court, Fast Track Court, George Town, Chennai, convicting the petitioner for the offence under Section 138 of Negotiable Instruments Act, 1881 (*hereinafter referred to as NI Act*) and sentencing him to undergo two years simple imprisonment and to pay compensation of Rs.10,50,000/-.

2. The gist of the allegations is that the respondent had filed a complaint against the petitioner stating that the petitioner received a sum of Rs.10,50,000/- towards sale consideration for the sale of his property and an unregistered sale deed was executed on 21.04.2014; that thereafter, the petitioner failed to hand over the vacant possession to the respondent; that on 20.03.2017, the petitioner promised to return the total sale consideration; and accordingly, on 23.03.2017, the petitioner issued a cheque for Rs.10,50,000/- drawn on State Bank of Hyderabad, Indira Nagar Branch; that the respondent had issued a statutory notice on 20.04.2017; that the said cheque when presented was dishonoured for the reason 'funds insufficient'



and that the same was returned with an endorsement “insufficient address” and therefore, the petitioner is liable for the offence.

3. The trial Court on the basis of the evidence held that the respondent had proved that the petitioner had issued the cheque; that the petitioner had not rebutted the statutory presumption and have convicted the petitioner as stated above. The appeal filed by the petitioner also came to be dismissed on 17.10.2022 by the Appellate Court in Crl.A.No.402 of 2019.

4. The learned counsel for the petitioner would submit that the respondent has not established that the cheque was issued for a legally enforceable debt, since Ex.P5 is an unregistered sale deed and the same cannot be looked into as it is not a valid document; and that the statutory notice was admittedly not received by the petitioner and therefore, no cause of action had arisen to maintain the complaint under Section 138 of NI Act.

5. During the previous hearings, there was no representation for the respondent. Hence, this Court appointed Mr.R.Raghuraj, learned counsel to assist this Court on behalf of the respondent. Today, the learned



counsel for the respondent as well as Mr.R.Raghuraj are present.

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6. Both the learned counsels would submit that the fact that the petitioner issued the cheque (Ex.P5) is not disputed; that though the sale deed is unregistered, it can be used for collateral purposes to prove that the petitioner had received a sum of Rs.10,50,000/- from the respondent; that the notice was sent to the address furnished by the petitioner in the said sale deed; and that therefore, since the notice was sent to the said address, it is deemed service. The learned counsels would further submit that the source of income of the respondent to pay the sale consideration of Rs.10,50,000/- was also proved by the respondent.

7. It is seen that the petitioner has not disputed the signature on the cheque. The petitioner has also not disputed the signature in the unregistered sale deed. The said document can certainly be used to prove that the petitioner had received a sum of Rs.10,50,000/-, though it may not confer title on the respondent. Since the foundational facts were established, the petitioner is bound to rebut the statutory presumption under Section 139 of NI Act. The petitioner has not rebutted the presumption in any manner.



The cross examination of the respondent is more in the form of suggestion and nothing has been elicited to improbabilise the evidence of the respondent. The petitioner has also not examined any witness on his side. Therefore, both the Courts below rightly convicted the petitioner for the offence under Section 138 of the NI Act. In any case, the judgments of the Court below are not perverse and do not suffer from any legal infirmity. Hence, this Court finds no reason to interfere with the judgment of the courts below.

8. However, considering the facts and circumstances of the case, this Court is of the view that the sentence of imprisonment of two years can be reduced to one year rigorous imprisonment. Accordingly, it is ordered as follows:

(i) The conviction of the petitioner for the offence under Section 138 of the NI Act, by the learned IV Metropolitan Magistrate, Fast Track Court, George Town, Chennai vide judgment dated 30.10.2019 in C.C.No.1363 of 2017 and confirmed by the learned VII Additional Sessions Judge, Chennai, vide judgment dated 17.10.2022 in Crl.A.No.402 of



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2019, is confirmed.

(ii) However, the sentence imposed on the petitioner i.e.,

Two years simple imprisonment and to pay compensation of Rs.10,50,000/-, is modified and the petitioner is sentenced to undergo one year rigorous imprisonment and to pay the cheque amount of Rs.10,50,000/- [Rupees Ten Lakhs and Fifty Thousand Only] as compensation, in default to undergo six months simple imprisonment.

9. In the result, the Criminal Revision Case stands partly-allowed.

10. The High Court Legal Services Committee, Chennai, shall pay the scheduled fee to Mr.R.Raghuraj, (Enrol. No. 1077 / 2001) Mobile No.98400 21993, learned Legal Aid Counsel, who assisted this Court for the respondent.

22.01.2026

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

1. The VII-Additional District and Sessions Court, Chennai,
2. The IV Metropolitan Magistrate Court,
Fast Track Court, George Town, Chennai – 01
3. The High Court Legal Services Committee, Chennai,

SUNDER MOHAN, J.

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