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CRL RC No. 315 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-03-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL RC No. 315 of 2023

Kamilabegam Nazeer

..Petitioner(s)

Vs

S. Ganapathi

..Respondent(s)

This Revision is filed under Section 397 r/w 401 Cr.P.C. to set aside the judgment dated 01.12.2022 passed in C.A.No.9 of 2017 by the Additional District and Sessions Judge, Kancheepuram at Chengalpattu confirming conviction and sentence passed against the petitioner by the Learned Judicial Magistrate, Tambaram dated 25.10.2016 in STC.No.264 of 2015 and call for the records and acquit the petitioner accused from all the charges or other orders.

For Petitioner(s):

Mr.A.Vinoth Kumar,
for M/s.S. Syed Mazhar Hayath

For Respondent(s):

No Appearance



ORDER

This Criminal Revision Case has been filed against the judgment passed in C.A.No.9 of 2017 dated 01.12.2022 by the Additional District and Sessions Judge, Kancheepuram at Chengalpattu, confirming the conviction and sentence imposed by the Trial Court in STC.No.264 of 2015 dated 25.10.2016 on the file of learned Judicial Magistrate, Tambaram for the offence punishable under Section 138 of Negotiable Instruments Act.

2. The petitioner is the accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act. The allegation of the respondent is that the petitioner approached him on 25.10.2014 and borrowed money for her son's marriage. In order to repay the said amount, the petitioner issued a cheque. When the same was presented for collection, it had been returned dishonoured for the reason "Funds Insufficient". After issuing statutory notice, the respondent lodged a complaint and the same was taken cognizance by the Trial Court. In order to prove the complaint, the respondent examined himself as PW1 and marked Exs.P1 to P4. On the side of the petitioner neither any witness was examined nor any document was marked.

3. On perusal of the oral and documentary evidence, the Trial Court found that the petitioner is guilty for the offence punishable under Section 138



of the Negotiable Instruments Act and sentence her to undergo six months rigorous imprisonment and to pay compensation of Rs.3,00,000/-. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed confirming the conviction and sentence passed by the Trial Court. Hence, the present Revision case.

4. The learned counsel for the petitioner submitted that except the cheque, no document was produced by the respondent to prove the alleged borrowal of Rs.2,50,000/-. Further, the respondent also failed to prove his financial capacity to lend such a huge amount to the petitioner. Therefore, the respondent failed to discharge the initial burden as contemplated under Section 138 of the Negotiable Instruments Act. Even then, both the Courts below wrongly convicted the petitioner herein.

5. On perusal of the records, it reveals that both the Courts below concurrently held that the petitioner is guilty and convicted her for the offence punishable under Section 138 of the Negotiable Instruments Act.

6. The respondent had given loan of Rs.2,50,000/- in favour of the petitioner herein. The petitioner assured that it will be returned within a period of one week. However, the petitioner failed to return the money as assured. Thereafter, the petitioner issued a cheque for the said loan amount. When it was



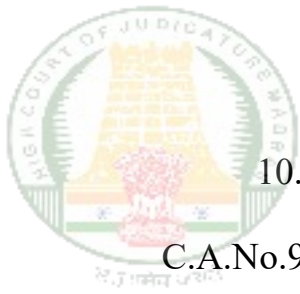
presented for collection, the same was returned for the reason “Funds Insufficient”.

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7. Thereafter, the respondent caused statutory notice as contemplated under Section 138 of the Negotiable Instruments Act. On receipt of the same, the petitioner choose to send a reply. Thus, the respondent discharged the initial burden as contemplated under Section 138 of the Negotiable Instruments Act. Though the petitioner had cross-examined the respondent, nothing was elicited to rebut the presumption under the Negotiable Instruments Act. Therefore, the Trial Court rightly found that the petitioner is guilty for the offence under Section 138 of the Negotiable Instruments Act and the Appellate Court rightly confirmed the same.

8. In view of the above, there is no infirmity or illegality in the order passed by the Trial Court. Hence, the Criminal Revision Case is dismissed.

9. At this juncture, the learned counsel for the petitioner submitted that if the petitioner pays the cheque amount within a period of four weeks from today, the order of conviction and sentence imposed on the petitioner may be set aside and she may be acquitted.



10. In view of the above submissions, the judgment dated 01.12.2022 in C.A.No.9 of 2017 passed by the Additional District and Sessions Judge, Kancheepuram at Chengalpattu, confirming the conviction and sentence passed by the learned Judicial Magistrate, Tambaram in STC.No.264 of 2015 dated 25.10.2016, is set aside, if the petitioner pays the cheque amount within a period of four weeks from today. Failing which, the respondent is at liberty to secure the petitioner to undergo the sentence in accordance with law. It is made clear that if any deposit has already been made by the petitioner, the same shall be deducted from the cheque amount.

09-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To

1. The Additional District and Sessions Judge, Kancheepuram
2. The Judicial Magistrate, Tambaram



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G.K.ILANTHIRAIYAN, J.

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