



Crl.R.C.No.400 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2026

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.400 of 2022

Dhanamani
W/o Krishna Kutty

... Petitioner

Vs.

S.Padmavathy
W/o Sukumaran

... Respondent

Prayer: Criminal Original Petition filed under Sections 397 and 401 of Cr.P.C to set aside the Judgment of the Learned Judicial Magistrate of the Fast Track Court (Level-II) Coimbatore dated 05.04.2018 made in C.C.No.459 of 2017 convicting the petitioner for the offence under Section 138 of the Negotiable Instruments Act and sentencing her to undergo simple imprisonment for one year and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) and in default of payment thereof to undergo an additional simple imprisonment for three months and the Judgment of the learned V Additional District and Sessions Judge, Coimbatore dated 30.11.2021 in C.A.No.170 of 2018 confirming the Judgment of the Trial Court and pass orders.

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For Petitioner : Mr. P.K.RajaGopal

For Respondent : Mr.C. Deivasigamani

ORDER

This Revision petition has been filed by the petitioner against the Judgment passed by the learned V Additional District and Sessions Judge, Coimbatore dated 30.11.2021 in C.A.No.170 of 2018, wherein the Judgment passed by the Learned Judicial Magistrate of the Fast Track Court (Level-II) Coimbatore dated 05.04.2018 made in C.C.No.459 of 2017 was confirmed.

2. Brief facts necessary for the disposal of the case is as follows:

2.1.The petitioner herein is an accused in the complaint lodged by the respondent for the offence punishable under section 138 of Negotiable Instruments Act alleging that the husband of the petitioner/Krishnan kutty borrowed a sum of Rs.7,50,000/- on 13.11.2009 from the respondent by executing a promissory note for the said sum and agreed to pay the said



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amount with 15% interest per annum . When the said money was demanded in order to discharge the legally enforceable debt, the petitioner/accused being the wife of the said Krishnan kutty has issued a cheque for a sum of Rs.7,00,000/-. It is stated that when the said cheque is presented for payment the same was returned with an endorsement “funds insufficient” Hence, the respondent lodged a complaint and the same has been taken cognizance by the Trial Court for the offence punishable under Section 138 of the Negotiable Instruments Act.

2.2.In order to prove the complaint, the respondent himself examined as P.W.1 and Ex.P.1 to Ex.P5 were marked .On the side of the petitioner no witnesses was examined and the one document D.1 was marked.

2.3. On a perusal of the oral and documentary evidence the Trial Court found the petitioner was punishable under section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for one year and to pay a fine of Rs.10,000/- and in default of payment of fine thereof to undergo three months simple imprisonment.

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Challenging the same the petitioner filed an appeal in C.A.No.70 of 2018 on the file of the District and Sessions Judge of Coimbatore, wherein the Judgment passed by the Trial Court was confirmed and the appeal was dismissed. Hence, the present revision.

3. The learned counsel for the petitioner submits that the respondent failed to prove her financial capacity to lend the huge amount. Further except the cheque no other documents were produced by the respondent at the time of borrowal. The cheque was not issued for the legally enforceable debt and the same was not considered by both the Court and has convicted the petitioner. Hence prays to allow this petition.

4. The learned counsel for the respondent submits that the husband of the petitioner has borrowed a sum of Rs.7,50,000/- and agreed to pay the said amount with 15% interest per annum and when the respondent demanded the petitioner to discharge his legally enforceable debt, the petitioner has issued a cheque for a sum of Rs.7,00,000/- and the same was returned as funds insufficient. Hence, the petitioner failed to re-pay the borrowed amount. Therefore, the petitioner was convicted under

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Section 138 of the N.I Act, hence, the Judgment passed by the both the Courts does not warrant interference and prays to dismiss this petition.

5. Heard both sides and perused the materials available on record.

6. On a perusal of records and also the submissions made by either side reveals that the petitioner had executed a pronote on the date of borrowal. In order to repay the same the petitioner has issued a cheque for a sum of Rs.7,00,000/- on 14.09.2011 and the same was marked as Ex.P.1 and the same was presented for collected it was returned as “funds insufficient”. Therefore, the respondent had satisfied the ingredients contemplated under Section 138 of the Negotiable Instruments Act, but the petitioner failed to rebut the same. In fact after receipt of the legal notice which is marked as Ex.P.4, the petitioner did not even reply and rebut the presumption. Further petitioner also admitted her signature found in the cheque and also the issuance of the cheque. The petitioner did not get into the box to depose and rebut the presumption and also failed to even elicit during the cross examination and also failed to produce any piece of evidence to substantiate her contention. Therefore,

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the Trial Court rightly convicted the petitioner and the same was confirmed by the Appellate Court.

7. This Court while granting Suspension of Sentence on 07.04.2022 in Crl.M.P.No.4105 of 2022 directed the petitioner to deposit 50% of the cheque amount to the credit of the Trial Court. However, till date the petitioner has not complied with the conditions imposed by this Court.

8. In view of the above this Court finds that there is no infirmity in the orders passed by the Trial Court and the Appellate Court. Therefore, this Court comes to the conclusion, that the respondent has proved the case against the petitioner about borrowal of a sum of Rs.7,50,000/- and issuance of the cheque in question for discharging the debt without sufficient funds and therefore she is liable to be convicted under section 138 of Negotiable Instruments Act.

9. The Courts below had rightly found the accused guilty u/s 138 of Negotiable Instruments and convicted him and imposed suitable punishment. This Court finds no reason to interfere with the Judgment of

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the Courts below. Accordingly the judgment of the V Additional District and Sessions Judge, Coimbatore dated 30.11.2021 in C.A.No.170 of 2018 is confirmed and this criminal revision petition is dismissed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
smn

To.

1. The Judicial Magistrate of the Fast Track Court (Level-II) Coimbatore
2. The V Additional District and Sessions Judge, Coimbatore.
3. The Public Prosecutor, Madras High Court, Chennai.



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G.K.ILANTHIRAIYAN, J
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