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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2026

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.R.C. No. 2268 of 2025

A. Perumal

..Petitioner

Vs.

R. Selvam

..Respondent

Prayer: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS to set aside the judgment dated 14.02.2025 passed in Crl.A. No. 74 of 2024 by the learned Additional District Judge (Fast Track Court), Mettur confirming the judgment dated 01.03.2024 passed in C.C. No. 94 of 2024 by the learned Judicial Magistraet No.1, Mettur.

For Petitioner :: Mr.L. Mouli

For Respondent :: Mr.A.Sathasivam



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ORDER

The revision challenges the judgment dated 14.02.2025 passed in CrI.A. No. 74 of 2024 by the learned Additional District Judge (Fast Track Court), Mettur confirming the judgment dated 01.03.2024 passed in C.C. No. 94 of 2024 by the learned Judicial Magistraet No.1, Mettur by which the petitioner was convicted under Section 138 of Negotiable Instruments Act and sentenced to undergo simple imprisonment for a period of one year and to pay compensation of Rs.15,00,000/-, in default, to undergo simple imprisonment for three months.

2. It is the case of the respondent that the petitioner had issued a cheque for a sum of Rs.15,00,000/- towards discharge of his liability on 07.03.2023; that when the said cheque was presented for collection, it was returned for the reason 'Funds Insufficient'; that in spite of statutory notice, the petitioner did not make payment and sent a reply notice with false averments and thus committed the aforesaid offence.



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3. Before the Trial Court, the respondent examined himself as P.W.1 and marked Exs.P1 to P6. The Branch Manager of the Complainant's Bank and the Branch Manager of the accused Bank were also listed as witnesses on the side of the complainant. The petitioner neither examined any witness nor marked any document on his side.

4. The Trial Court found that the respondent had proved that the cheque was issued for a legally enforceable debt; that the petitioner had not rebutted the statutory presumption and found the petitioner guilty of the offence under Section 138 of the Negotiable Instruments Act and sentenced him as aforesaid.

5. Learned counsel for the petitioner would submit that the respondent had misused the cheque which was given as security; that he had borrowed a sum of Rs.5lakhs from the complainant, a few years before the alleged cheque was issued and he had returned the said sum through his son's account; that this fact was not taken into consideration by the Court below; that the respondent had claimed exorbitant interest @ 36% per



annum, which is illegal and therefore, the Court below ought to have held that the cheque was not for a legally enforceable debt.

6. Learned counsel for the respondent, per contra, would submit that the accused could have probalised his defence by examining his son or by producing any document to prove the return of alleged earlier loan; that both the Courts below found that the respondent had established that the cheque was issued for a legally enforceable debt and therefore, since there is no infirmity in the judgments of the Courts below, this revision is abuse of process of law and prayed for dismissal of the revision.

7. As stated earlier, the respondent had examined himself as P.W.1 and the Bank Managers as witnesses; he had also filed the cheque and return memo; the legal notice and the reply notice sent by the petitioner. The only defence taken by the petitioner is that he had earlier borrowed a sum Rs.5 lakhs from the de facto complainant and had handed over the said cheque as a security to the respondent. His further defence is that the loan amount was repaid by him. However, the petitioner did not probalise the



defence by showing that there was a loan transaction a few years before for which the cheque was issued as security and that the petitioner had repaid the said amount. The Courts below rightly found that the petitioner had not rebutted the statutory presumption. The judgments of the Courts below are justified and do not suffer from any perversity warranting interference. Hence, the revision stands dismissed.

09.02.2026

Neutral Citation: yes/No

nv

To

1. The Addl. District Judge
FTC, Mettur.
2. The Judicial Magistrate No.1,
Mettur.



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SUNDER MOHAN,J.

nv

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