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IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 04-11-2026**

CORAM

**THE HON'BLE MR.JUSTICE SHAMIM AHMED**

**CRL RC No. 2348 of 2026**

CNR:{HCMA010879212026}

**AND**

**CRL MP NO. 19412 & 15339 OF 2026**

M. Kumar

..Petitioner(s)

Vs

Ramesh

..Respondent(s)

PRAYER: This revision case has been filed seeking to call for the records and allow this revision petition and setaside the judgement passed by the Additional District and Sessions Court, Attur, in Crl.A.No.228 of 2024 dated 15.12.2025 confirming the judgement passed by the Judicial Magistrate, Fast Track Court(Magisterial Level), Attur in STC.No.137 of 2023 dated 21.08.2024.

For Petitioner(s): Mr.R.Mukesh

For Respondent(s): No appearance

**ORDER**

This Criminal Revision Case has been filed challenging the judgment dated 15.12.2025 passed in C.A. No.228 of 2024 on the file of the Learned Additional District and Sessions Court, Attur, whereby the appeal preferred by the petitioner was dismissed, confirming the judgment of conviction and



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sentence dated 21.08.2024 passed in S.T.C. No.137 of 2023 on the file of the Learned Judicial Magistrate, Fast Track Court (Magisterial Level), Attur.

2. This Court heard the submissions made by the learned counsel for the petitioner and perused the materials available on record, including the judgments passed by both the Courts below.

3. The brief facts leading to the filing of this revision are that the respondent/complainant initiated proceedings against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the "NI Act"), alleging that the petitioner had borrowed a sum of Rs.2,00,000/- on 05.04.2021 and a further sum of Rs.2,50,000/- on 10.06.2021 for his personal and medical shop business requirements and had executed two promissory notes in respect of the said borrowings. As the petitioner failed to repay the amounts, a settlement was allegedly arrived at before the elders on 02.02.2023, pursuant to which the petitioner issued a cheque bearing No.071474 for Rs.4,50,000/- drawn on Axis Bank, Attur Branch. When the said cheque was presented for collection, it was returned unpaid on 14.06.2023 with the endorsement "Funds Insufficient". Thereafter, the respondent issued a statutory demand notice dated 27.06.2023, which was served on the petitioner on 28.06.2023. Since the petitioner neither paid the cheque amount nor issued any



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reply, the respondent instituted the complaint under Section 138 of the NI Act.

4. Before the Trial Court, the respondent examined P.W.1 to P.W.3 and marked Exs.P1 to P7. The petitioner did not examine any witness or produce any documentary evidence on his behalf. Upon appreciation of the oral and documentary evidence, the Trial Court found the petitioner guilty of the offence under Section 138 of the NI Act and sentenced him to undergo one year of simple imprisonment and directed him to pay compensation of Rs.4,50,000/- to the respondent under Section 357 of the Code of Criminal Procedure, 1973, in default to undergo three months of simple imprisonment.

5. Aggrieved by the said conviction and sentence, the petitioner preferred an appeal in C.A. No.228 of 2024. The learned Appellate Court, after independently re-appreciating the evidence and considering the rival submissions, dismissed the appeal by judgment dated 15.12.2025, confirming the conviction and sentence imposed by the Trial Court.

6. The principal grounds raised by the petitioner are that the Courts below failed to appreciate that the alleged loan had already been repaid and that the cheque, which was allegedly issued as security, had been misused by the respondent. It is further contended that the respondent failed to establish the



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existence of a legally enforceable debt, his financial capacity to advance the alleged loan and the creditor-debtor relationship between the parties. The petitioner also alleges material contradictions in the testimony of the prosecution witnesses, particularly P.W.1 and P.W.3, and contends that the respondent failed to establish the circumstances surrounding the alleged loan transaction. On these grounds, the petitioner seeks interference with the concurrent findings of the Courts below.

7. This Court has carefully considered the aforesaid contentions. It is evident from the judgment of the learned Appellate Court that the respondent examined not only himself but also P.W.2 and P.W.3, who corroborated his version regarding the borrowings made by the petitioner. The respondent also produced the two promissory notes marked as Exs.P5 and P6 in support of the alleged loan transactions. Significantly, Ex.P7, being the insolvency petition filed by the petitioner, contains an admission regarding the existence of a blank cheque with the respondent. The learned Appellate Court, therefore, found that the respondent had established a prima facie case regarding the transaction and the issuance of the cheque towards discharge of the liability.

8. Once the execution of the cheque and the foundational facts necessary to attract the statutory presumptions are established, the presumptions under


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Sections 118(a) and 139 of the NI Act operate in favour of the holder of the cheque. The burden then shifts to the accused to rebut the said presumptions by raising a probable defence on the standard of preponderance of probabilities. A mere denial of the transaction or a bald assertion that the cheque was issued as security would not, by itself, be sufficient to discharge the said burden.

9. In the present case, the petitioner has not produced any independent oral or documentary evidence to establish that the alleged loan had been repaid or that the cheque had been misused by the respondent. No material has been placed on record to substantiate the alleged repayment or to establish any circumstances rendering the respondent's claim improbable. Further, the petitioner did not issue any reply to the statutory demand notice disputing the alleged liability. The learned Appellate Court has also considered the petitioner's contention regarding non-existence of a legally enforceable debt and the alleged contradictions in the witnesses' testimony and, upon appreciation of the entire evidence, rejected the same for cogent reasons.

10. The contention regarding the financial capacity of the respondent and non-disclosure of the alleged loan in the Income Tax Returns also does not, in the facts of the present case, dislodge the statutory presumption. In this regard, the Hon'ble Supreme Court in *Ashok Singh v. State of Uttar Pradesh* and


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Another, 2025 INSC 427, has reiterated that the complainant is not required, at the threshold, to establish his financial capacity once the statutory presumption under Section 139 of the NI Act is attracted. The burden shifts to the accused to place material circumstances sufficient to raise a probable defence. The said decision supports the view that a mere challenge to the complainant's financial capacity, without substantiating the defence, is insufficient.

11. Further, in *Bir Singh v. Mukesh Kumar*, (2019) 4 SCC 197, the Hon'ble Supreme Court held that even a voluntarily signed blank cheque, subsequently filled up by the holder, attracts the statutory presumption under Section 139 of the NI Act, unless the accused establishes a probable defence to rebut the same. Similarly, in *Sripati Singh v. State of Jharkhand and Another*, 2021 SCC OnLine SC 1002, the Hon'ble Supreme Court explained that a cheque issued as security is not rendered unenforceable merely because it was described as a security cheque; if the underlying liability becomes due and remains unpaid, its dishonour may attract Section 138 of the NI Act. Therefore, the petitioner's defence that the cheque was issued as security cannot be accepted in the absence of satisfactory evidence establishing repayment or absence of liability.

12. It is also relevant to note that in *Bijoy Kumar Moni v. Paresh Manna*


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and Another, 2024 INSC 1024, the Hon'ble Supreme Court reiterated the importance of the statutory presumptions under Sections 118 and 139 of the NI Act and restored the concurrent findings of conviction where the accused had failed to substantiate the defence that the cheque was issued merely as security. The principles laid down in the aforesaid decisions squarely apply to the facts of the present case.

13. It is well settled that the revisional jurisdiction of this Court is limited and is not equivalent to that of an appellate Court. Unless the findings of the Courts below suffer from patent illegality, perversity, material irregularity or a manifest error resulting in miscarriage of justice, interference in revision is not warranted. In the present case, both the Trial Court and the Appellate Court have considered the oral and documentary evidence in detail and arrived at concurrent findings of fact. This Court finds no perversity, illegality or infirmity warranting interference with the well-reasoned judgments of the Courts below.

14. On an overall consideration of the facts, evidence and circumstances of the case, this Court is of the considered view that both the Courts below have rightly dealt with the matter and arrived at a just and proper conclusion. The petitioner has failed to establish any ground warranting interference with the conviction and sentence. This Court finds no merit in the present Criminal


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Revision Case.

15. Accordingly, this Criminal Revision Case is **dismissed**. The judgment dated 15.12.2025 passed by the Learned Additional District and Sessions Court, Attur, in C.A. No.228 of 2024, confirming the judgment dated 21.08.2024 passed by the Learned Judicial Magistrate, Fast Track Court (Magisterial Level), Attur, in S.T.C. No.137 of 2023, is hereby confirmed. Consequently, connected miscellaneous petitions if any, shall stand closed. There shall be no order as to costs.

16. The Trial Court is directed to take immediate and appropriate steps, in accordance with law, to secure the presence of the petitioner/accused and to ensure execution of the sentence imposed upon him and recovery of the compensation amount, if not already paid.

17. The Registry is directed to transmit a copy of this order to the Courts below for necessary compliance.

**04-11-2026**

Neutral Citation: Yes/No

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To

1.The Additional District and Sessions Court, Attur,
2.The Judicial Magistrate, Fast Track Court(Magisterial Level), Attur



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**SHAMIM AHMED J.**

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