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CRL RC No. 1120 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-04-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL RC No. 1120 of 2023

Sankar

..Petitioner

Vs

C.Muthukumar

..Respondent

Prayer : This Criminal Revision Case filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the Judgment passed the Learned Judicial Magistrate Court No.II, Pollachi in STC.2069 of 2016, dated 22.12.2021 as confirmed by the Judgment of the Learned III Additional District and Sessions Judge, Coimbatore in CA.7 of 2022 dated 18.04.2023.

For Petitioner: Mr. S.N.Arunkumar

For Respondent: D.R.Arun Kumar

ORDER

This Criminal Revision Case has been filed against the Judgment dated 18.04.2023 passed in C.A.No.7 of 2022 on the file of the Additional District and Sessions Judge, Coimbatore, thereby confirming the order of conviction and sentence imposed by the Judicial Magistrate Court No.II, Pollachi, in



S.T.C.No.2069 of 2016, dated 22.12.2021, for the offence punishable under Section 138 of the 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 case of the respondent is that the accused borrowed a sum of Rs.5,00,000/- from the respondent for his urgent needs and promised to repay the same with interest at the rate of 12% per annum. However, the accused failed to repay the said amount. After repeated requests, the accused issued a cheque for a sum of Rs.5,00,000/- towards partial discharge of the principal amount. When the said cheque was presented for collection, the same was returned dishonoured with the endorsement “Funds Insufficient”. After causing a statutory notice, the respondent initiated proceedings under Section 138 of the Negotiable Instruments Act and the same has been taken cognizance by the Trial Court.

3. In order to prove the complaint, the respondent had examined P.W.1 and marked Exs.P1 to P5. On the side of the accused, no witnesses were examined and no documents were marked.



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4. On perusal of the oral and documentary evidence, the Trial Court found the accused guilty of the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of one year and also awarded compensation to the cheque amount with interest at the rate of 5% per annum commencing from the date of complaint till the date of actual payment, failing which, the accused shall undergo default sentence of simple imprisonment for two months. Aggrieved by the same, the accused preferred an appeal. However, the Appellate Court dismissed the appeal and confirmed the order of conviction and sentence imposed by the Trial Court. Hence, the present Criminal Revision Case has been filed.

5. The learned counsel appearing for the petitioner/accused submitted that though the accused admitted his signature and issuance of the cheque, he categorically rebutted the presumption during the cross-examination of P.W.1. Even then, the respondent failed to prove that the cheque was issued for legally enforceable debt. Despite the same, both the Courts below convicted the accused for the offence punishable under Section 138 of the Negotiable



Instruments Act. He further submitted that, out of the cheque amount of Rs.5,00,000/-, so far the accused paid a sum of Rs.1,00,000/- and sought for three weeks time to settle the remaining amount.

6. Per contra, the learned counsel appearing for the respondent submitted that the accused borrowed a sum of Rs.5,00,000/- on 15.04.2016 and also agreed to pay interest at the rate of 12% per annum. Further, the accused admitted the signature and also issuance of the cheque. In order to rebut the presumption, the accused did not enter the witness box and nothing else in the cross-examination of P.W.1. Therefore, the Trial Court rightly convicted the accused and the Appellate Court rightly confirmed the order of conviction and sentence imposed by the Trial Court. Insofar as the interest is concerned, the Trial Court awarded compensation to the cheque amount with interest at the rate of 5% per annum payable by the accused. Therefore, the concurrent findings of the Trail Court as well as the Appellate Court do not warrant any interference by this Court.

7. Heard the learned counsel appearing on either side and perused the materials available on record.



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8. The respondent had lent a sum of Rs.5,00,000/- for his urgent needs, on the assurance that the same would be repaid with interest at the rate of 12% per annum. However, the accused failed to repay the said amount. After repeated requests, the accused issued a cheque for a sum of Rs.5,00,000/- towards partial discharge of his liability. The said cheque was presented for collection and the same was returned dishonoured with the endorsement “Funds Insufficient”. Therefore, the respondent caused statutory notice. On receipt of the same, the accused failed to reply, thereby attracting the presumption under Section 138 of the Negotiable Instruments Act.

9. That apart, the accused admitted his signature as well as the issuance of the cheque. Therefore, the respondent has discharged the initial burden as contemplated under Section 138 of the Negotiable Instruments Act. However, the accused failed to rebut the presumption as contemplated under Section 118 and 139 of the Negotiable Instruments Act. Therefore, the Trial Court rightly convicted the accused and the Appellate Court also rightly confirmed the order of conviction and sentence imposed by the Trial Court.



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10. In view of the above, this Court finds no perversity or illegality in the findings of the Courts below. Accordingly, this Criminal Revision Case fails and the order of conviction and sentence imposed by the Courts below is hereby confirmed. However, it is made clear that if the accused pays the balance cheque amount on or before 31.05.2026 directly to the respondent, the order of conviction and sentence imposed by the Courts below shall stand set aside. Failing which, the petitioner is at liberty to take appropriate steps to secure the accused to undergo the remaining period of sentence after 31.05.2026.

11. In the result, this Criminal Original Petition stands dismissed.

28-04-2026

Index: Yes/No

Neutral Citation: Yes/No

LPP

To

1.The III Additional District and Sessions Judge,
Coimbatore.

2.The Judicial Magistrate No.II,
Pollachi.



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