



Crl.RC.No.658 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2026

CORAM:

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

Crl.RC.No.658 of 2021

M.Sarasu
Wife of Murugesan
3/216, B/1, Ammaiyappa Nagar,
Kuchipalayam,
Varagoorampatti Village,
Thokkavadi,
Thiruchengode Taluk,
Namakkal District.

... Petitioner

Vs.

M.Yasotha,
W/o. M.Subramani,
D.No.217/2, Kallukadai Medu
Keeleripatti,
Devanakuruchi Post,
Thiruchengode Taluk,
Namakkal District.

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C., to set aside the conviction imposed in the Judgment dated 09.03.2021 made in C.A.No.81 of 2020 on the file of the learned Principal District and Sessions Judge, Namakkal, confirming the conviction imposed in Judgment dated 24.11.2020 made in S.T.C.No.77 of 2019 on the file of the learned Judicial Magistrate (FTC), Thiruchengode by allowing this criminal revision petition.

For Petitioner : Mr.N.S.Balaji

Page 1 of 7



WEB COPY



Crl.RC.No.658 of 2021

for Mr.M.Guruprasad

For Respondent : Mr.G.Paramasivam

ORDER

This revision has been filed to set aside the conviction imposed in the Judgment dated 09.03.2021 made in C.A.No.81 of 2020 on the file of the learned Principal District and Sessions Judge, Namakkal, confirming the conviction imposed in Judgment dated 24.11.2020 made in S.T.C.No.77 of 2019 on the file of the learned Judicial Magistrate (FTC), Thiruchengode.

2. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act, alleging that the petitioner borrowed a sum of Rs.5,00,000/- from the respondent for urgent expenses. On the date of borrowal, the petitioner issued a post-dated cheque for the said amount, dated 30.01.2019. It was presented for collection and the same was returned with the endorsement “refer to drawer”. After causing a statutory notice, the respondent filed a complaint and same has been taken on cognizance by the trial Court.



Crl.RC.No.658 of 2021

3. In order to prove the complaint, the respondent/complainant examined herself as P.W-1 and marked documents Ex.P-1 to Ex.P-4 and on the side of the petitioner/accused, D.W-1 was examined and no documents were marked.

4. On completion of the trial, the trial Court found the petitioner guilty of the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced her to undergo six months simple imprisonment and also to pay compensation equal to the cheque amount.

5. Aggrieved by the same, the petitioner preferred an appeal which was dismissed confirming the order of sentence imposed by the trial Court. Hence, the present revision.

6. On perusal of the records and the submissions on either side, it is revealed that the respondent filed a complaint alleging that the petitioner borrowed Rs.5,00,000/- for the urgent expenses and issued a post-dated cheque dated 30.01.2019 on the date of alleged borrowal I.e., 30.10.2018. The cheque was marked as Ex.P-1, which was presented for collection on 04.02.2019 and was returned by the return memo dated 06.02.2019 with the endorsement "refer to drawer", which was marked as Ex.P-2.



Crl.RC.No.658 of 2021

Thereafter, the respondent served a statutory notice on the petitioner which was marked as Ex.P-3.

7. The respondent herein, who is none other than the wife of the complainant in STC.No.76 of 2019, filed a complaint against the petitioner herein and her son namely M.Mathanprasath. The husband and wife, who are the complainants in both cases, lodged complaints against the mother and son separately by misusing the cheques. Since the petitioner allegedly had an illegal intimacy with the respondent's husband, the cheques were misused by the respondent and her husband.

8. The petitioner, who deposed as D.W-1, categorically stated that she never borrowed the amount from the respondent herein and she is an illiterate and also that she did not know the alleged cheque marked as Ex.P-1. She entered into the Chit which was conducted by the husband of the respondent herein. During the chit transaction, cheque was received by the respondent's husband for the security purpose. Since she allegedly had an illicit relationship with the respondent's husband, the cheque was misused by her by presenting it before the Bank. In fact, the petitioner also lodged a complaint.



Crl.RC.No.658 of 2021

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9. Therefore, the petitioner categorically rebutted the presumption as contemplated under Section 139 of the Negotiable Instruments Act. Even then, the respondent did not take any steps to prove that the cheque was issued for a legally enforceable debt.

10. Further, the respondent and her husband are agriculturists and they are engaged in a vegetable vending business using the produce from their own land. Though the respondent stated that she is an income tax assessee, she did not produce any piece of evidence to substantiate that she is an assessee to the income tax, nor was the borrowed amount accounted for in her returns of income. Even then, the trial Court without considering the facts and circumstances of the case, mechanically convicted the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act.

11. In view of the above, the entire conviction and sentence imposed by the trial Court and confirmed by the appellate Court cannot be sustained and are liable to be quashed.

12. Accordingly, this Criminal Revision is allowed. The



Crl.RC.No.658 of 2021

conviction imposed in the Judgment dated 09.03.2021 made in C.A.No.81 of 2020 on the file of the learned Principal District and Sessions Judge, Namakkal, confirming the conviction imposed in Judgment dated 24.11.2020 made in S.T.C.No.77 of 2019 on the file of the learned Judicial Magistrate (FTC), Thiruchengode is set aside. No costs.

17.03.2026

dh

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

To

1. The Principal District and Sessions Judge,
Namakkal.
2. The Judicial Magistrate, (FTC)
Thiruchengode.



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Crl.RC.No.658 of 2021

G.K.ILANTHIRAIYAN.J.,

dh

Crl.RC.No.658 of 2021

17.03.2026