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CrI.RC.No.656 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2026

CORAM:

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

CrI.RC.No.656 of 2021

M.Mathanprasath
Son of Murugesan
No.14, SVA Extension Street – 3
Thondikaradu,
Thiruchengode Town and Taluk,
Namakkal District.

... Petitioner

Vs.

M.Subramani
Son of Murugesan,
D.No.217/2, KallukadaiMedu
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.80 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.76 of 2019 on the file of the learned Judicial Magistrate (FTC), Thiruchengode by allowing this criminal revision petition.

For Petitioner : Mr.N.S.Balaji
for Mr.M.Guruprasad

For Respondent : Mr.G.Paramasivam



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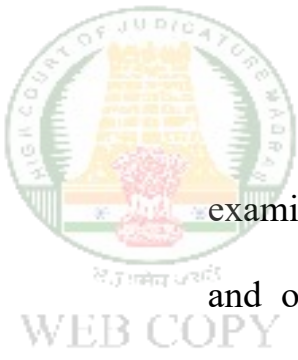
ORDER

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This revision has been filed to set aside the conviction imposed in the Judgment dated 09.03.2021 made in C.A.No.80 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.76 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 had borrowed a sum of Rs.20,00,000/- from the respondent and discharged the same. The petitioner had issued post-dated cheque dated 12.12.2018 on the date of borrowal i.e., 12.09.2018. The said cheque was presented for collection, however, it was returned with the endorsement “Drawers Signature Incomplete/Differs”. After causing a statutory notice, the respondent filed a complaint and same has been taken on cognizance by the trial Court.

3. In order to prove the complaint, the respondent/complainant



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examined himself as P.W-1 and marked documents as Ex.P-1 to Ex.P-4 and on the side of the petitioner/accused, D.W-1 was examined and Ex.D-1 and Ex.D-2 were marked.

4. On completion of trial, the trial Court found the petitioner guilty under Section 138 of the Negotiable Instruments Act and sentenced him to undergo one year of simple imprisonment and also to pay compensation equal to the cheque amount.

5. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed, confirming the order of trial Court by the Appellate Court.

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.20,00,000/- by way of cash. On the date of borrowal, the petitioner issued a post-dated cheque dated 12.12.2018 and the same was presented for collection on 04.02.2019. The cheque was marked as Ex.P-1. Thereafter, the respondent caused a statutory notice to the petitioner, which was returned with an endorsement “unclaimed”, and the said statutory notice was marked as Ex.P-3.

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7. On perusal of Ex.P-3, the respondent mentioned the address of the petitioner as “M.Mathanprasath (Age 30), S/o. Murugan, No.3/261, B/1, Ammaiyappa Nagar, Kuchipalayam Post, Varagoorampatti Village, Thokkavadi, Tiruchengode Taluk, Namakkal District.” The complaint was also lodged mentioning the very same address of the petitioner. The trial Court had taken cognizance of the complaint and issued notice to the very same address. The Court notice was also returned as “unclaimed”. The petitioner entered the box and deposed that he never lived at the said address and did not borrow any amount from the respondent. He is a stranger to him and never issued any cheque. The account from which the cheque was issued had been closed 7 years before the presentation of the cheque. He never issued the cheque to the respondent herein and did not know how the cheque was reached into the hands of the respondent herein.

8. After receipt of the return notice, the trial Court issued an NBW against the petitioner to the very same address. The NBW was executed and the petitioner appeared before the trial Court. It clearly shows that the petitioner was not living at the said address as mentioned by the respondent in the statutory notice as well as in the complaint.

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9. It is also evident from the records that except Ex.P-1, the respondent did not produce any piece of evidence to show that the petitioner was acquainted with the respondent and due to which, he borrowed a sum of Rs.20,00,000/-. In fact, the respondent's claim that he lent a sum of Rs.20,00,000/- by way of cash is not proved. A person who lends such a huge amount in cash, even to a known person, would not do so without execution of a security document.

10. In the case of hand, apart from Ex.P-1, the respondent did not produce any document to show that on the date of alleged borrowal, the petitioner executed any document or handed over any original deed for security purpose. Further, the account from which Ex.P-1 is alleged to have been issued was closed 7 years prior to the presentation of the cheque.

11. That apart, in fact, the cheque was returned with an endorsement "Drawer signature incomplete/differs". Therefore, the petitioner categorically rebutted the presumption as contemplated under Sections 119 and 139 of Negotiable Instruments Act. The petitioner also produced Ex.D-1 and Ex.D-2 which shows that the petitioner is residing at D.No.14, SVA Ex Street 4, Thondikaradu, Tiruchengode,



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Seetharampalayam, Namakkal, Tamil Nadu – 637 209. Therefore, when the notice was issued in the name of the petitioner to the wrong address, the person who was present at the said address refused to receive the notice, as the name of the person was completely different. Therefore, it cannot be presumed that the petitioner is living at the address to which the notice was sent and refused to receive it.

12. P.W-1 categorically deposed that he is engaged in agriculture. The petitioner used to sell the agricultural products in the market daily and at that juncture, the petitioner would come to the market for lending money to the daily merchants. Therefore, the petitioner was also known to the financial capacity of the respondent to lend such a huge amount of Rs.20,00,000/- without any interest. When the petitioner categorically rebutted the presumption as contemplated under Section 139 of the Negotiable Instruments Act, the entire burden shifted on the shoulder of the respondent. However, the respondent failed to prove that Ex.P-1 was issued for any legally enforceable debt. Unfortunately, without considering the facts and circumstances of the case, the trial Court mechanically convicted the petitioner. Hence, 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.

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13. The conviction imposed in the Judgment dated 09.03.2021 made in C.A.No.80 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.76 of 2019 on the file of the learned Judicial Magistrate (FTC), Thiruchengode is set aside.

14. In view of the above, this Criminal Revision is allowed. No costs.

17.03.2026

dh

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

To

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



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G.K.ILANTHIRAIYAN.J.,

dh

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