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CRL RC No. 192 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-01-2026

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL RC No. 192 of 2022

G.Murugan
S/o Gurusamy,
36, Veereswaran East Street,
Srirangam, Tiruchirapalli District.

Petitioner/Accused

Vs

G.Narayanamoorthy
S/o Gothandaraman,
13/4, Nachipatti Village,
Vennanthur Post, Rasipuram Taluk,
Namakkal District

Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Cr.P.C., 1973 praying to call for the records and set aside the judgment of dismissal passed in C.A.No.78 of 2020 dated 14.09.2021 by the learned Principal District and Sessions Judge, Namakkal as well as the judgment of conviction passed in C.C.No.193 of 2016 by the learned Judicial Magistrate Court, Rasipuram dated 03.12.2020 by allowing the Criminal Revision Petition.

For Petitioner(s): Mr.K.Kesavan
for M/s.Right Law Associates

For Respondent(s): Mr.K.A.Mariappan



ORDER

The petitioner/Accused in C.C.No.193 of 2016 was convicted by the trial Court by the judgment dated 03.12.2020 for offence under Section 138 of the Negotiable Instruments Act ('N.I. Act') and sentenced to undergo one year simple imprisonment and to pay the cheque amount of Rs.5,00,000/- as compensation. Aggrieved against the same, the petitioner filed an appeal before the learned Principal District and Sessions Judge, Namakkal in Crl.A.No.78 of 2020. The learned Sessions Judge, by the judgment dated 14.09.2021 dismissed the appeal confirming the conviction and sentence of the trial Court, against which, the present revision is filed.

2.The gist of the case is that the respondent/complainant/PW1 was known to the employer of the petitioner with whom he had good business relationship. In this relationship the petitioner came in contact with the respondent/complainant and they also became friendly. In view of this relationship, the petitioner requested a loan of Rs.5,00,000/- to settle a bank due. Considering his request, the respondent gave a loan of Rs.5,00,000/-. In discharge of the said liability, the petitioner issued a cheque bearing No.000170 dated 15.07.2016 drawn on Karur Vysya Bank, Thillai Nagar Branch and requested that after two months the cheque can be presented and encashed. Based on the request, on 22.07.2016 the cheque was presented and the same



was returned on 26.07.2016 for the reason 'Insufficient Funds'. Thereafter statutory notice issued on 06.08.2016, which was received on 08.08.2016.

Thereafter, the petitioner neither paid the cheque amount nor sent any reply. Following the statutory procedure complaint filed.

3. During trial, the complainant examined himself as PW1 and marked Exs.P1 to P4. On the side of the defence, no witnesses examined and no documents marked. On conclusion of trial, the trial Court convicted the petitioner as stated above and the Lower Appellate Court confirmed the same.

4. The learned counsel for the petitioner submitted that the petitioner at the time of preferring an appeal before the Sessions Court, deposited a sum of Rs.1,00,000/- to the credit of C.C.No.193 of 2016 before the trial Court on 08.01.2021. Both the trial Court as well as Lower Appellate Court failed to accept the explanation given by the petitioner questioning the financial capability of the respondent and further the respondent not even verified or informed the petitioner's employer under whom he was working. Without any verification no person would give such huge amount of Rs.5,00,000/- as loan. The respondent being a moneylender had taken the security cheque, which was given for earlier transaction, filled up, misused and projected against the petitioner. Hence, the petitioner probalised his defence by cross examination.



But the trial Court as well as Lower Appellate Court failed to consider the same.

Hence, prayed for allowing this revision.

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5.The learned counsel for the respondent strongly opposed the petitioner's contention and submitted that in this case the petitioner and the respondent are friends. The petitioner came in contact with the respondent through the petitioner's employer with whom the respondent had business transaction. The petitioner not denied the cheque and the signature in the cheque. His only explanation is that the cheque was lost, which was misused by the respondent. But except bald and sweeping statement, no materials or specific cross examination done in this aspect. The trial Court rightly found that petitioner's defence is not sustainable. The petitioner not taken any steps to prove that cheque was lost. Further the petitioner received statutory notice/Ex.P3 and acknowledgement card/Ex.P4 produced for the same. The petitioner also not denied the same. Further when he was questioned under Section 313 of Cr.P.C, no such explanation given.

6.The defence of the petitioner was that the cheque/Ex.P1 was lost by the petitioner which was misused by the respondent and a false case filed against the petitioner. The Trial Court finding is that the petitioner neither denied the cheque nor his signature found in the cheque but gives an explanation without



any materials. Further the missing of cheque neither reported to the bank nor to police and no steps taken. Considering all these aspects, the Trial Court convicted the petitioner. The Lower Appellate Court independently considered the evidence, examined witnesses and rightly dismissed the appeal confirming the conviction of the petitioner. Hence, prayed for dismissal of the revision.

7.The learned counsel for respondent further submitted that this Court earlier granted suspension of sentence to the petitioner in Crl.M.P.No.1953 of 2022 on 04.03.2022, with a condition that the petitioner to deposit 20% of the cheque amount. Whether this condition complied or not, is not known.

8.This Court finds that both the trial Court as well as Lower Appellate Court convicted the petitioner. The petitioner's defence is far-fetched without any materials. The petitioner not denied the cheque and his signature. The statutory presumption against the petitioner not dislodged. The respondent/complainant examined himself and marked four documents and deposited in conformity with the complaint. Both the Courts below rightly convicted the petitioner. In view of the above, this Court finds no merits in this revision.



9. The respondent/complainant shall file appropriate petition/Memo before the trial Court along with the copy of this order seeking return of 20% of the cheque amount i.e., Rs.1,00,000/-. The trial Court is directed to return the amount of Rs.1,00,000/- deposited in the credit of C.C.No.193 of 2016 or any other amounts, if deposited, along with accrued interest to the respondent, dispensing notice to the petitioner.

10. With the above directions, the Criminal Revision Case is dismissed.

05.01.2026

Index: Yes/No

Speaking / Non-speaking order

Neutral citation : Yes/No

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To

1. The Principal District and Sessions Judge,
Namakkal.

2. The Judicial Magistrate,
Rasipuram.



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M. NIRMAL KUMAR, J.

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