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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-02-2026

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THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL RC No. 1646 of 2023

and

CrI.M.P.No.15542 of 2023

Mrs.S.Karthika
W/o.Santhosh,
Hiranandani Sea Wood A-2201,
No. 5/63,
Egattur Village,
O.M.R.Thalambur,
Chennai – 603 103.

...Petitioner/Appellant/
Accused

Vs

T.J.Sankar Kumar
S/o. T.M.Jayaraman,
No. 79/30, Mylappa Street,
Ayanavaram, Chennai – 600 023.

...Respondent/Respondent/
Complainant



Prayer : Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C., to set aside the order of conviction dated 25.07.2023 passed by the VII Additional District and Sessions Court at Chennai in C.A.No. 286 of 2022 as confirmed by the order dated 26.09.2022 in CC.No.8557 of 2018 by the Learned Metropolitan Magistrate Fast Track Court - I, Egmore at Allikulam, Chennai.

For Petitioner: Mrs.J.Swathy
Legal Aid Counsel

For Respondent: Mr.V.M.Venkataramana

ORDER

This Criminal Revision challenges the Judgment dated 25.07.2023 passed in Crl.A.No.286 of 2022 on the file of the VII Additional District and Sessions Court at Chennai, confirming the Judgment dated 26.09.2022 passed in C.C.No.8557 of 2018 on the file of the Metropolitan Magistrate Fast Track Court – I, Egmore, Allikulam, Chennai, convicting the petitioner for the offence under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the “*NI Act*”) and sentencing her to undergo two years of simple imprisonment and to pay compensation of double the cheque amount i.e., Rs.13,40,000/- [Rupees Thirteen Lakhs and Forty Thousand Only], in default to undergo six months of simple imprisonment.



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2. It is the case of the respondent/respondent/complainant that the petitioner/appellant/accused had issued a cheque bearing No.106700 dated 06.07.2018 for a sum of Rs.6,70,000/- (Rupees Six Lakhs Seventy Thousand Only) towards discharge of the liability of her husband, who had obtained a loan of Rs.5,00,000/- (Rupees Five Lakhs Only) from the respondent; that when the said cheque was presented for collection, it was returned for the reason “**Funds Insufficient,**” and the statutory notice sent to the petitioner was returned with an endorsement “**Intimation Delivered**” on the first occasion and “**unclaimed**” on the second occasion, and in spite of the same, the petitioner did not make any payment, and therefore, the petitioner is liable for the aforesaid offence

3. The respondent had examined himself as P.W.1 and marked seven documents as Exs.P1 to P7. The husband of the petitioner was examined as D.W.1, and one Mr. Ravi Kumar Sharma, the Bank Manager was examined as D.W.2.

4. The Trial Court found that the respondent/respondent/complainant had established that the cheque was issued for legally enforceable debt; and that the petitioner/appellant/accused had not rebutted the statutory presumption. Hence, the Trial Court convicted the petitioner as stated above. The appeal filed by the



petitioner also came to be dismissed on 25.07.2023 by the Appellate Court in Crl.A.No.286 of 2022.

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5. Since there was no representation for the petitioner when the matter was listed on the earlier occasion, this Court had appointed Mrs. J. Swathy (MS No.574/2021), Advocate, as Legal Aid Counsel to assist this Court on behalf of the petitioner.

6. Mrs.J.Swathy, the learned counsel for the petitioner/appellant/accused, would submit that the petitioner had rebutted the statutory presumption by examining D.W.1, the husband of the petitioner, who, though he had admitted the receipt of the loan, had stated that the substantial portion of the loan was repaid; that without making any endorsement, the respondent had presented the cheque that was given as security; and that the impugned Judgments therefore liable to be set aside, and she prayed for acquittal.

7. Mr. V.M. Venkataramana, the learned counsel for the respondent/respondent/complainant, *per contra*, submitted that the respondent had proved that the cheque was issued for legally enforceable debt; that D.W.1, husband of the petitioner, though he had stated that he had repaid a portion of



the amount, had not substantiated the said fact; and in view of the same, the Trial and Appellate Court was justified in convicting the petitioner and prayed for dismissal of this Criminal Revision.

8. The respondent had examined himself as P.W.1 and marked seven documents as stated above. It is not in dispute that the subject cheque was signed by the petitioner. The respondent had issued the statutory notice, and in spite of the statutory notice, the petitioner did not make any payment. Since the respondent had proved the foundational facts, Section 139 of the NI Act was invoked.

9. The petitioner had examined her husband as D.W.1. D.W.1 in his evidence admitted that he participated in a chit and received Rs.5,00,000/- (Rupees Five Lakhs Only) and had repaid Rs.2,90,000/- (Rupees Two Lakhs Only). However, D.W.1 had not produced any document to substantiate that he participated in the chit run by the respondent. He had also not produced any document to show that he had paid Rs.2,90,000/- (Rupees Two Lakhs Only) to the respondent.



10. Since the petitioner had not probablised his defence, the Courts below held that the cheque was issued for a legally enforceable debt and the petitioner is liable to pay the said amount. This Court finds no infirmity in the Judgments passed by the Courts below in holding the petitioner guilty of the offence.

11. It is reported that the petitioner had paid Rs.1,00,000/- (Rupees One Lakh Only) to the respondent pending the appeal, which is not in dispute. Considering the fact, this Court is of the view that the petitioner can be sentenced to suffer rigorous imprisonment for 1 year and to pay Rs.4,00,000/- (Rupees Four Lakhs Only) as compensation to the respondent, failing which, the petitioner shall undergo simple imprisonment for a period of three months. Accordingly, it is ordered as follows:

(i) The conviction of the petitioner for the offence under Section 138 of the NI Act by the learned Metropolitan Magistrate, Fast Track Court – I, Egmore at Allikulam, Chennai, vide Judgment dated 26.09.2022 in C.C.No.8557 of 2018 and confirmed by the learned VII Additional Sessions Judge, Chennai, vide Judgment dated 25.07.2023 in Crl.A.No.286 of 2022, is confirmed.

(ii) However, the sentence imposed on the petitioner, i.e., two years of simple imprisonment and to pay compensation of double the cheque amount i.e., Rs.13,40,000/- [Rupees Thirteen Lakhs and Forty



Thousand Only], is modified to the effect that the petitioner is sentenced to undergo one year of rigorous imprisonment and to pay Rs.4,00,000/- [Rupees Four Lakhs Only] as compensation, in default to undergo three months of simple imprisonment.

12. In the result, the Criminal Revision Case stands partly allowed. Consequently, the connected miscellaneous petition is closed.

13. The High Court Legal Services Committee, Chennai, shall pay the scheduled fee to Mrs.J.Swathy (MS No.574/2021), Mobile No.80560 94520, learned Legal Aid Counsel, who assisted this Court for the petitioner.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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SUNDER MOHAN, J.

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