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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.04.2026

CORAM

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

Crl.R.C.No.1066 of 2019

Zen Global Finance Ltd
Rep.By Its Authorised Signatory, Mr.Srinivasan,
54 Years, No.20a, 2nd Cross Street, Trustpuram,
Kodambakkam, Chennai-600 024.

..Petitioner(s)

Vs

P.N.Shivaprasad
Proprietor, M/s.Uma Rubber Industries, No.62, 8th
Main Road, Jayalakshmipuram, Mysore-570 012.

..Respondent(s)

Prayer: Criminal Original Petition filed under Sections 397 r/w 401 of Cr.P.C to set aside the Order Passed by the learned XVI Additional City Civil Judge, Chennai made in C.A.No.211 of 2017 dated 08.04.2019 confirming the Judgment of acquittal passed by the learned XXIII Metropolitan Magistrate, Saidapet, Chennai in C.C.No.4708 of 2001 by Judgment dated 25.11.2009.

For Petitioner(s): M/s.Ganesh Rajan
A.Nagarajan
J.Asokan
V.Vignesh

For Respondent(s): M/s.M.L.Ganesh
S.Arun Kumar For The Respondent

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ORDER

This Criminal Revision petition has been preferred as against the Judgment passed in C.A.No.211 of 2017 dated 08.04.2019 on the file of the XVI Additional City Civil and Sessions Court, Chennai thereby confirming the order passed by the learned XXIII Metropolitan Magistrate, Saidapet, Chennai in C.C.No.4708 of 2001 dated 25.11.2009.

2. The case of the prosecution is that the petitioner lodged a complaint as against the respondent alleging that the respondent received a sum of Rs.1,59,25,000/- and when the petitioner demanded for the said amount the respondent accused issued a cheque for Rs.1,67,25,000/-. It is alleged that when the cheque was presented for collection, the same was returned dishonoured with the endorsement " "funds insufficient" Hence, the petitioner issued a legal notice on 08.06.2001 and even after receiving the legal notice, the accused failed to make fulfill of the cheque amount to the complainant. Hence, the petitioner lodged a complaint and the same has been taken cognizance by the Trial Court for the offence punishable under Section 138 of the Negotiable Instruments Act.

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3. In order to prove the charges, on the side of the petitioner P.W.1 and P.W.2 were examined and Exs.P.1 to 3 were marked. On the side of the accused D.Ws.1 to 3 were examined and Exs.D1 to D.13 were marked.

4.On a perusal of oral and documentary evidence, the Trial Court concluded that the petitioner was not found guilt of the offence u/s 138 of Negotiable Instrument Act. Aggrieved by the same, the petitioner preferred an appeal before the learned XVI Additional City Civil Judge, Chennai made in C.A.No.211 of 2017 and the same was dismissed on 25.11.2019. Hence the present Revision.

5. The learned counsel for the petitioner submits that there were various transactions between the accused and the complainant, apart from that the accused had issued another cheque which was also dishonored and the complainant admitted that he availed a loan and Ex.D1 clearly shows that the accused requested to hand over the guarantees and the post dated cheques, which clearly reveals the fact that the respondent had

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issued the cheque only for a legally enforceable debt. He further submits the accused had nowhere stated that he had not received any money from the complainant and he had stated that he had received the amount for purchasing the property and again he says that he returned the amount and again he says that the amount was given to some other company. Therefore, the accused had not come with consistent stand and this would itself falsify the entire defence case and the accused may be found guilt for the offence under Section 138 of Negotiable Instruments Act. Hence prays to allow this petition.

6. Per Contra the learned counsel for the respondent relied on a letter marked as Ex.D.8 which clearly reveals that the accused was looking for a coffee estate to purchase the same. He further submitted that the accused and the complainant has not stated as to how a sum of Rs.1,67,25,000/- was arrived as the amount due and liable from the accused and complainant's company should have sent a demand notice immediately after the accused had failed to repay the monthly EMI in time, but the complainant had issued a legal notice on 23.06.2001 marked

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as Ex.P.5 and a suitable reply was given by the accused vide Ex.P.8. Furthermore, the accused is not a proprietor of M/s Uma Rubber Industries and it is run only by his wife and the same is an admitted fact. Therefore, the complainant with a malafide intention had filled the blank cheque and foisted a false case against the accused. Hence, prays to dismiss this petition.

7. Heard both sides and perused the materials available on record.

8. The crux of the complaint is that the respondent borrowed a sum of Rs.1,59,25,000/- on various dates out of which an amount of Rs.50,00,000/- was paid and the remaining amount was not paid by the respondent. The contention of the respondent is that the respondent had not borrowed the said amount. The respondent states that the said amount was given to the respondent by the complainant only for the purchase of land in the name of his wife and the same is proved by Ex.D.5 and 6 dated 25.10.1994 and 02.02.1995 respectively. Ex.D7 dated 15.05.1995 reveals that a sum of Rs.50 Lakhs was received by the respondent by way of 5 lakhs equity shares of the company by name M/s Angel Merchants

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Ltd. The final payment of Rs.89,25,000/- was given to the accused only for the purchase of shares and the said money was received from M/s.Lakashmi Vijayan Investments Pvt Ltd.

9. It is also seen from records that DW.1 deposed in his evidence that the complainant's company is having account with Indian Bank Thousand Light Branch and the cheque dated 15.05.1995 was given for an amount of Rs.50,07,500/- and after taking commission amount of Rs.7,500/- for bank, and amount of Rs.50,00,000/- was given to one Angel Merchant Pvt Ltd. This clearly shows that the complainant company has given an amount of Rs.50,00,000/- only to Angel Merchant Pvt Ltd., but not to Uma Rubber Industries as stated by the complainant in his complaint. Further one of the Cheque i.e No.496645 dated 15.05.1995 was drawn on Karur Vysya Bank, Whites Road Branch, Chennai for an amount of Rs.89,25,000/-. But the DW2 in his evidence deposed that the complainant's company is having an account with Karur Vysysa Bank, Whites Road Branch and no transaction was made in the complainant's account regarding the cheque No:499645 dated 15.05.1995 for an amount of Rs.89,25,000/-

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10. In view of the above it is made clear that the complainant himself did not bring any supporting evidence to support the impugned cheque and prove the existence of a legally enforceable debt or liability. Hence, he shall not be entitled to any presumption. As such both the Trial Court and the Appellate Court has not found the petitioner guilty for the offence under section 138 of the Negotiable Instruments Act and dismissed the complainant which does not require interference by this Court.

11. Hence, the Order Passed by the learned XVI Additional City Civil Judge, Chennai made in C.A.No.211 of 2017 dated 08.04.2019 confirming the Judgment of acquittal passed by the learned XXIII Metropolitan Magistrate, Saidapet, Chennai in C.C.No.4708 of 2001 by Judgment dated 25.11.2009 is hereby confirmed. Accordingly this Criminal Revision case is dismissed.

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Index: Yes/No
Internet: Yes/No
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To.
1. The XVI Additional City Civil Judge, Chennai

2. The XXIII Metropolitan Magistrate, Saidapet, Chenna

3.The Public Prosecutor,
Madras High Court,Chennai.

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G.K.ILANTHIRAIYAN, J
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