



Crl.RC.No.11 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2026

CORAM:

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

Crl.RC.No.11 of 2023

L.A.Rex

... Petitioner

Vs.

Shamshad

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 & 401 of Cr.P.C. to set aside the Judgment passed in C.A.No.181 of 2018 on the file of the III Additional District and Sessions Judge, Coimbatore, dated 16.08.2022 confirming the Judgment passed in C.C.No.796 of 2013 by the Judicial Magistrate, Fast Track Court No.1 at Magisterial Level, Coimbatore dated 02.04.2018 by allowing this revision

For Petitioner : Mr.B.Kumarasamy

For Respondent : Mrs.V.Gayathri Vasudevan

ORDER

This criminal revision case has been filed praying to set aside the Judgment passed in C.A.No.181 of 2018 on the file of the III Additional District and Sessions Judge, Coimbatore, dated 16.08.2022 confirming the Judgment passed in C.C.No.796 of 2013 by the Judicial Magistrate, Fast Track Court No.1 at Magisterial Level, Coimbatore



Crl.RC.No.11 of 2023

dated 02.04.2018.

WEB COPY

2. The petitioner is the accused in the complaint lodged by the respondent for the offence punishable under Section 138 of NI Act alleging that the petitioner had borrowed a sum of Rs.5,50,000/- on 17.01.2013 and he promised to repay the same within a month. Thereafter, in order to settle the said amount, the petitioner had issued two cheques for a sum of Rs.5,00,000/- and 50,000/- respectively. Both the cheques were presented for collection and they were returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, the respondent filed complaint and the same was taken cognizance by the trial court.

3. In order to prove the complaint, the respondent was examined as PW1 and marked Ex.P1 to Ex.P6. On the side of the petitioner, DW1 and DW2 were examined and marked Ex.D1 and Ex.D2. On perusal of oral and documentary evidences, the trial court found the petitioner guilty for the offence punishable under Section 138 of NI Act and sentenced him to undergo six months simple imprisonment and also awarded compensation to the tune of the cheque amount. Aggrieved by the same, the petitioner preferred appeal and the same was also dismissed

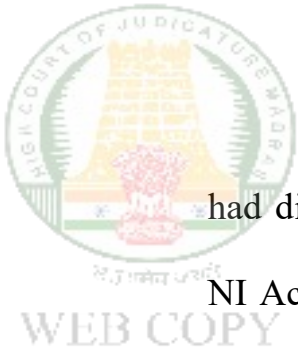


confirming order of the trial court. Hence, the present revision has been filed.

4. The learned counsel appearing for the petitioner would submit that already he filed memo stating that he has no instruction from the petitioner and also the counsel, who was engaged then, reported that the petitioner's whereabouts was not known and there was no contact with him.

5. The learned counsel appearing for the respondent would submit that the petitioner did not file any petition for suspension of sentence so far.

6. Even then, the respondent did not take any step to secure the petitioner to serve the sentence imposed by the trial court confirmed by the appellate court. Though the petitioner had examined DW1 and DW2, he failed to rebut the presumption as contemplated under Sections 118 and 139 of NI Act. Further, merely putting suggestion and fair denial by the accused, that too without adducing any proper evidence, it cannot be construed as rebuttable in nature. Therefore, the evidence of the petitioner was rightly rejected by the trial court. On the other hand, the respondent



Crl.RC.No.11 of 2023

had discharged her initial burden as contemplated under Section 138 of NI Act. In fact, the petitioner did not even deny the signature and also issuance of cheque. Therefore, the appellate court rightly convicted the petitioner and the order does not warrant any interference by this Court.

7. In view of the above discussion, this criminal revision case is dismissed. However, the respondent is directed to take immediate steps to secure the petitioner to serve the sentence imposed by the trial court.

05.03.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
lok



Crl.RC.No.11 of 2023

To
WEB COPY

- 1.Learned III Additional District and Sessions Judge, Coimbatore
- 2.The learned Judicial Magistrate, Fast Track Court No.1 at Magisterial Level, Coimbatore



WEB COPY



Crl.RC.No.11 of 2023

G.K.ILANTHIRAIYAN, J.

lok

Crl.RC.No.11 of 2023

05.03.2026