



Crl.R.C. No. 1785 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2026

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.R.C. No. 1785 of 2023

D. Jebamanickam
S/o. Devasagayam,
Proprietor of
Meridian Man Power Association,
Residing at No. 39/1A,
North Brade Road,
St. Thomas Mount,
Chennai 600 016.

..Petitioner

Vs.

G. Muthuraman,
S/o. Guruswamy,
Residing at No.34/104,
Brindavan Nagar,
Kesavardhini,
Valasaravakkam,
Chennai 600 087.

..Respondent

Prayer: Criminal Revision Petition filed under Section 438 r/w 442 of
BNSS to set aside the judgment dated 23.06.2023 passed in C.A. No. 8 of
2021 by the learned III Additional District and Sessions Judge, Thiruvallur

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confirming the judgment dated 30.12.2020 passed in S.T.C. No. 268 of 2016 by the learned Judicial Magistrate, Fast Track Court (Magisterial Level II), Poonamallee.

For Petitioner :: Mr.M. Prabhakar

For Respondent :: Mr.K. Alakendran

O R D E R

The revision challenges the judgment dated 23.06.2023 passed in Crl.A. No. 8 of 2021 by the learned III Additional District and Sessions Judge, Tiruvallur at Poonamallee confirming the judgment dated 30.12.2020 in S.T.C. No. 268 of 2016 passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level II) Poonamallee convicting the petitioner for the offence under Section 138 of Negotiable Instruments Act and sentencing him to undergo simple imprisonment for six months and to pay compensation of Rs.22,25,000/- and in default to undergo simple imprisonment for two weeks.



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2. It is the case of the respondent/complainant that the during the month of December, 2012, the petitioner approached the respondent for a loan as he had financial crisis; that he had obtained loan of a sum of Rs.30 lakhs and executed a document evidencing the receipt of the loan on 06.12.2012; that he had promised to repay the debt by paying Rs. 5 lakhs every month; that the petitioner never paid the agreed amount; that after several demands, the petitioner issued a cheque bearing No. 0489073 dated 10.05.2013 to the tune of Rs. 22,25,000/- towards discharge of his liability in part; that the cheque, when presented for collection, was returned for the reason 'Account Closed'; that the respondent issued the statutory notice; that instead of paying the amount covered under the cheque, the petitioner had sent a reply to the said notice containing false averments and thus, committed the aforesaid offence.

3. Before the Trial Court, the respondent examined himself as P.W.1 and marked Exs. P1 to P6; the Trial Court found that the respondent had established that the cheque was issued by the petitioner; that the petitioner had not rebutted the statutory presumption and held the



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petitioner guilty of the aforesaid offence and sentenced him as stated above.

The Appellate Court confirmed the said judgment of conviction and sentence.

4. Learned counsel for the petitioner would submit that the petitioner had rebutted the statutory presumption by eliciting certain facts in the cross-examination of P.W.1; that in the reply notice, the petitioner had stated that the document which was marked as Ex.P1 was obtained under threat; that the petitioner had lodged a complaint before the Police and that no action was taken on his complaint; that in the cross-examination, P.W.1 had admitted that there was an earlier transaction in the year 2010 in which the petitioner had borrowed a sum of Rs.15 lakhs and had repaid the said sum, which suggests that the cheque in question was issued as a security in respect of the said transaction; that in the cross-examination, the respondent was unable to prove his source of income and had given evasive replies as regards his source for financing Rs.30 lakhs; that therefore, the Court below ought to have seen that the petitioner had rebutted the statutory presumption and ought to have called for proof by the de facto complainant/respondent to



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prove the loan.

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5. Learned counsel for the respondent, per contra, would submit that the petitioner has neither disputed his signature in the cheque nor in the loan document marked as Ex.P1; that the said document is dated 06.12.2012; that though in the reply notice, the petitioner has stated that he lodged a complaint before the Inspector of Police, Valasaravakkam, no proof has been filed to substantiate the same; that the petitioner had also not taken any steps to pursue his complaint thereafter though he claims to have filed a petition before the High Court; that merely because the respondent had not produced the income tax returns, it cannot be said that the petitioner has rebutted the statutory presumption; that in this case, apart from the cheque, the petitioner had also executed another document that was marked before the Trial Court and that this Court cannot re-appreciate the evidence in a revision unless the findings of the Court below are perverse and suffer from legal infirmity.

6. Heard both sides and perused the materials on record.



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7. As stated earlier, the respondent had examined himself as P.W.1 and marked 6 documents as Exs.P1 to P6. Ex.P1 is the document titled as ‘ Loan Agreement’; Ex.P2 is the subject cheque; Ex.P3 is the return memo issued by the Banker; Ex.P4 is the statutory notice sent by the respondent to the petitioner; Ex.P5 is the acknowledgement card and Ex.P6 is the reply to the notice. The petitioner had neither chosen to examine himself nor filed any document.

8. The petitioner has not disputed his signature either in the cheque or in the loan agreement marked as Ex.P1. Therefore, the presumption under Section 139 of Negotiable Instruments Act has to be necessarily drawn. The question is whether the petitioner has rebutted the statutory presumption. The petitioner has not produced any proof for filing any complaint to the Police before the Trial Court. The reply sent by the petitioner to the notice would be of no avail to the petitioner to substantiate the fact of his giving a complaint. The only other defence is that the petitioner and the respondent had financial transactions earlier and that the



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cheque was issued towards a loan received in the year 2010 and that was admittedly repaid by the petitioner.

9. It is seen from the cross-examination that the petitioner had questioned the respondent's capacity to lend a sum of Rs.30 lakhs and the fact that he had not disclosed the loan in his income tax returns. P.W.1 had admitted the transaction that took place in the year 2010. He would however reiterate that the petitioner borrowed another sum of Rs.30 lakhs on 06.12.2012 and he executed Ex.P1. Apart from the general suggestions made in the cross-examination, the petitioner has not let in any contra evidence to dispute this fact. As regards the capacity of the respondent to lend a sum of Rs.30 lakhs, it is seen that the respondent's case does not depend only on the issuance of the cheque, but also on Ex.P1. There is no explanation by the petitioner for the execution of Ex.P1 except vaguely stating that it was obtained under coercion.



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10. Therefore, this Court is of the view that the petitioner has not rebutted the statutory presumption in the manner known to law. That apart, it is seen that the view taken by the Trial Court and the Appellate Court is plausible and there is no perversity in the judgments. In such circumstances, there is no reason to interfere in the concurrent findings of the Courts below.

11. For all the above reasons, this Court finds no merit in the present revision and the revision stands dismissed. The judgment of conviction and sentence imposed by the trial Court and confirmed by the Appellate Court are hereby confirmed.

29.01.2026

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To

1. The III Addl. District and Sessions Judge,
Tiruvallur at Poonamallee.
2. The Judicial Magistrate,
FTC at Magisterial Level II, Poonamallee.



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SUNDER MOHAN,J.

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