



Crl.R.C.No.663 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2026

CORAM:

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

Crl.R.C.No.663 of 2021
and Crl.M.P.No.10727 of 2021

Ramesh
S/o. Muthu Udayar,
Siruvachur Village,
Perambalur Taluk & District.

..Petitioner(s)

Vs

Nainappan
S/o. Periyasamy Udayar,
Siruvachur Village,
Perambalur Taluk & District.

..Respondent(s)

PRAYER: Criminal Revision has been filed under Section 397 r/w Section 401 of Cr.P.C., praying to call for the records relating to judgment dated 24.06.2019 passed in C.A.No.07 of 2018 on the file of the Principal District and Sessions Court, Perambalur, in confirming the order dated 15.11.2018 passed in S.T.C.No.1814 of 2014 on the file of the Judicial Magistrate Court, Perambalur, set aside the same.

For Petitioner(s): Mr. M.Tamil Thendral Arasu

For Respondent(s): No appearance



Crl.R.C.No.663 of 2021

ORDER

This Criminal Revision has been preferred as against the judgement dated 24.06.2019, passed by the learned Principal District and Sessions Judge, Perambalur, in Crl.Appeal No.07 of 2018, thereby confirming the order passed by the learned Judicial Magistrate, Perambalur, in S.T.C.No.1814 of 2014, dated 15.11.2018, thereby convicting the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act, (hereinafter referred to as “the NI Act”).

2. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the NI Act, alleging that the petitioner was doing lorry freight business and he is the close friend of the respondent. Further alleged that the petitioner borrowed a sum of Rs.3,00,000/- from the respondent for the purpose of developing his business. He promised to repay the same. In order to repay the said amount, the petitioner issued cheque for a sum of Rs.3,00,000/-. It was presented for collection. However it was returned dishonor for the reason “funds insufficient”. After causing statutory notice, the respondent lodged complaint and the same has been taken cognizance by the Trial Court in S.T.C.No.1814 of 2014.



Crl.R.C.No.663 of 2021

3. In order to prove the complaint, the respondent examined P.W.1 and marked Ex.P.1 to Ex.P.5. On the side of the petitioner, no one was examined as witness and no documents were marked to disprove the case of the respondent. On perusal of the oral and documentary evidence, the Trial Court found the petitioner guilty for the offence under Section 138 of the NI Act and sentenced him to undergo imprisonment of two months simple imprisonment and to pay the cheque amount as compensation in default to undergo one month further imprisonment. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed by confirming the order passed by the Trial Court. Hence, the present Revision.

4. The learned counsel appearing for the petitioner submits that the respondent did not even mention on which date the alleged amount was borrowed by the petitioner. Though the petitioner reverted the presumption as contemplated under Section 138 of the NI Act by detailed cross examination, the Trial Court and the Appellate Court without considering the same convicted the petitioner. In fact, on receipt of the statutory notice, the petitioner caused reply notice, which is marked as Ex.P.5 in which, the petitioner categorically stated that the respondent's son-in-law handed over goods lorry for sale. After sold out the lorry, the petitioner owed to pay a sum of Rs.1,30,000/- to the son-

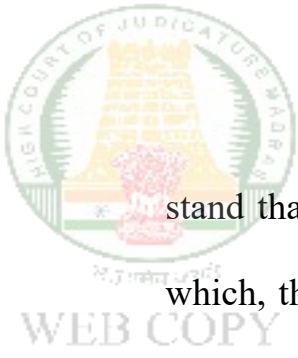


Crl.R.C.No.663 of 2021

in-law of the respondent. Apart from that, the petitioner also borrowed a sum of Rs.40,000/- from the son-in-law of the respondent. At the time of borrowal, the petitioner had handed over blank cheque for security purpose. The said cheque was misused by the respondent and initiated proceedings under Section 138 of the NI Act. Without considering the above facts and circumstances, the Trial Court as well as the Appellate Court convicted the petitioner for the offence under Section 138 of the NI Act.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. On perusal of the documents and also on the submissions made by the learned counsel appearing for the petitioner, it is revealed that the petitioner did not deny the issuance of the cheque as well as the signature found in the cheque. Therefore, the respondent discharged his initial burden as contemplated under Section 138 of NI Act. Though the petitioner had taken specific stand in this reply notice that the lorry owned by son-in-law of the respondent was handed over for sale with the petitioner, the petitioner failed to produce any piece of argument to show that the respondent's son-in-law handed over the goods vehicle to the petitioner for sale. Further the petitioner had taken specific



Crl.R.C.No.663 of 2021

stand that the sale consideration was fixed at Rs.8,00,000/- for goods lorry in which, the petitioner had paid a sum of Rs.6,70,000/- out of Rs. 8,00,000/- as sale consideration. He promised to pay the remaining sum of Rs.1,30,000/- within a period of one month. Further he also borrowed a sum of Rs.40,000/- from the son-in-law of the respondent herein. But the petitioner did not produced any documents to that effect before the Trial Court. He also did not elicit anything during the cross-examination of the respondent. Further, the petitioner also failed to let in any evidence to disprove the case of the respondent. Hence, the Trial Court had taken presumption under Section 138 of the NI Act and convicted the petitioner and the same was also confirmed by the first Appellate Court. Therefore, concurrently the petitioner has been convicted by the Trial Court as well as the Appellate Court. This Court finds no infirmity or illegality in the order passed by the Courts below. Hence, the Criminal Revision failed and liable to be dismissed.

7. Accordingly, the Criminal Revision Case stands dismissed.
Consequently, connected miscellaneous petition is closed.

18.03.2026

Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non Speaking order
rts
Page 5 of 6



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Crl.R.C.No.663 of 2021

G.K.ILANTHIRAIYAN. J,

rts

To

1. The Principal District and Sessions Judge,
Perambalur.
2. The learned Judicial Magistrate,
Perambalur.

Crl.R.C.No.663 of 2021
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