IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-07-2026

CORAM

THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL RC No. 869 of 2024
and
CRL MP Nos.7578 & 7579 of 2024

K.Indumathi
W/o. Gokul, Nagalapuram Road, Uthukottai,
Thiruvallur District.

..Petitioner(s)

Vs

Vinayagam
S/o. Ekambaram, East Bazaar Street, Sholingar,
Sholingar Taluk, Ranipet District.

..Respondent(s)

Prayer: To set aside the order of dismissal passed by IInd Additional District and Sessions Judge, at Vellore, Ranipet to in Crl.A.No.90/2023 dated 05.02.2024 against the order of conviction passed by learned Judicial Magistrate Court at Sholinghur in STC.No.197/2022 dated 28.03.2023.

For Petitioner(s): Ms.Chandana For Mr.V.T.Narendiran

For Respondent(s): Mr.R.P.Ruban Chakaravarthy

ORDER

This Criminal Revision Case has been filed praying to set aside the judgment dated 05.02.2024 passed in C.A.No.90 of 2023 on the file of the Learned II Additional District and Sessions Judge, Vellore at Ranipet, confirming the judgment dated 28.03.2023 passed in S.T.C.No.197 of 2022 on the file of the Learned Judicial Magistrate, Sholinghur.

2.The brief facts leading to the filing of this revision petition are that the respondent/complainant initiated proceedings against the petitioner under Section 138 read with Section 142 of the Negotiable Instruments Act. According to the complainant, the petitioner had borrowed a sum of Rs.6,00,000/- (Rupees Six Lakhs only) on 05.01.2022 and, towards the said liability, issued a post-dated cheque bearing No.933300 drawn on UCO Bank, Purasaiwakkam Branch, Chennai, dated 14.02.2022 for a sum of Rs.6,00,000/-. It is the further case of the complainant that the petitioner again borrowed a sum of Rs.6,00,000/- on 10.01.2022 and issued another post-dated cheque bearing No.933297 drawn on UCO Bank, Purasaiwakkam Branch, dated 17.02.2022 for a sum of Rs.6,00,000/-.

3.The said cheques were presented for collection through the complainant's banker, namely, Bank of India, Sholinghur Branch, and were returned unpaid with the endorsement "Funds Insufficient". Thereafter, the complainant issued a statutory notice dated 28.02.2022 calling upon the petitioner to pay the cheque amounts. The said notice was received by the petitioner on 07.03.2022. However, the petitioner neither paid the cheque amounts nor sent any reply. Hence, the complaint came to be filed for the offence under Section 138 of the Negotiable Instruments Act.

4.After trial, the learned Judicial Magistrate, Sholinghur, vide judgment dated 28.03.2023 in S.T.C.No.197 of 2022, found the petitioner guilty for the offence under Section 138 of the Negotiable Instruments Act and sentenced her to undergo Simple Imprisonment for three months in respect of each cheque and directed her to pay a sum of Rs.12,00,000/- as compensation to the complainant under Section 357(3) Cr.P.C., with the sentences directed to run consecutively.

5.Aggrieved by the said conviction and sentence, the petitioner preferred Crl.A.No.90 of 2023 before the Learned II Additional District and Sessions Judge, Vellore at Ranipet. The learned Appellate Court, after considering the evidence and the grounds raised by the petitioner, dismissed the appeal vide judgment dated 05.02.2024 and confirmed the judgment of the Trial Court. It is further seen from the records that, during the pendency of the proceedings, the matter was also referred for mediation with a view to explore the possibility of an amicable settlement between the parties. However, the mediation proceedings failed and the parties could not arrive at any settlement.

6.Thereafter, by order dated 25.04.2024, this Court directed the petitioner to deposit 20% of the cheque amount and, upon such deposit, the application for suspension of sentence was directed to be considered in accordance with the said order.

7.Subsequently, the matter was considered by a learned Co-ordinate Bench of this Court and, by order dated 19.07.2024, the petitioner was directed to deposit a further sum equivalent to 30% of the cheque amount, to the credit of S.T.C.No.197 of 2022 on the file of the Learned Judicial Magistrate, Sholinghur, within the time stipulated therein.

8.When the matter is taken up for hearing, the learned counsel appearing for the respondent/complainant, Mr.R.P.Ruban Chakkravarthy submitted that the condition imposed by this Court vide order dated 19.07.2024 has not been complied with by the petitioner. It is further submitted that the petitioner has failed to deposit the further 30% of the cheque amount as directed by this Court and has not produced any material before this Court to establish compliance with the said conditional order.

9.The learned counsel for the petitioner submitted that the petitioner is not in a position to comply with the condition imposed by this Court and requested that the Criminal Revision Case may be considered and decided on its merits.

10.This Court has carefully considered the submissions made by the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the judgments passed by the courts below and the entire materials available on record.

11.The learned counsel for the petitioner submitted that the courts below failed to properly appreciate the evidence on record. It was contended that the complainant had no sufficient financial capacity to advance a sum of Rs.12,00,000/- to the petitioner and that no supporting document evidencing the alleged loan transaction had been produced. It was further contended that the complainant had not disclosed his source of income and that he was allegedly engaged in money-lending activity without producing any licence. The learned counsel also submitted that the alleged transaction was in violation of Section 269SS of the Income-tax Act and, therefore, the alleged debt could not be treated as a legally enforceable debt.

12.It was further contended that the petitioner had raised a probable defence during the cross-examination of PW1, namely, that the petitioner's husband had borrowed a sum of Rs.5,00,000/- from the complainant and that, at the time of the said transaction, two blank cheques belonging to the petitioner were handed over to the complainant as security. According to the petitioner, the said amount had subsequently been repaid by her husband and, thereafter, the complainant had misused the security cheques and instituted the present complaint. It was therefore argued that the statutory presumption under Sections 118 and 139 of the Negotiable Instruments Act stood rebutted.

13.This Court has carefully considered the grounds raised by the petitioner and perused the judgments passed by both the courts below. It is not in dispute that Ex.P1 and Ex.P2 cheques bear the signatures of the petitioner. The specific defence raised by the petitioner before the courts below was that the cheques were handed over by her husband as security in respect of a loan transaction between her husband and the complainant.

14.Once the execution/signature of the cheque is admitted, the statutory presumption under Sections 118(a) and 139 of the Negotiable Instruments Act operates in favour of the holder of the cheque. The said presumption is rebuttable and the accused is entitled to rebut the same by raising a probable defence on the touchstone of preponderance of probabilities. However, the burden to rebut the presumption has to be discharged by bringing on record circumstances and materials which make the existence of the legally enforceable debt reasonably doubtful.

15.In the present case, the petitioner has taken the specific defence that the cheques were issued as security for a loan of Rs.5,00,000/- allegedly borrowed by her husband and that the said loan had subsequently been discharged. However, except putting suggestions during the cross-examination of PW1, the petitioner has not produced any legally acceptable material to establish repayment of the alleged loan or misuse of the cheques.

16.The learned Appellate Court has specifically considered the said defence and found that the petitioner admitted her signatures found in Ex.P1 and Ex.P2 cheques, but failed to adduce any legally acceptable evidence to substantiate her defence even on the standard of preponderance of probabilities. The Appellate Court also noted that the petitioner had admitted the receipt of Rs.5,00,000/- by her husband from the complainant. Therefore, the courts below have rightly held that the statutory presumptions under Sections 118(a) and 139 of the Negotiable Instruments Act operate in favour of the complainant.

17.It is also significant that the petitioner did not issue any reply to the statutory notice dated 28.02.2022, though the notice was admittedly received by her on 07.03.2022. If the cheques had in fact been issued only as security towards a loan transaction of her husband and the said liability had already been discharged, the petitioner could have placed the said defence on record by issuing a reply to the statutory notice. The failure to issue any reply, coupled with the absence of any independent material establishing repayment, assumes significance while considering the defence raised by the petitioner.

18.The contention that the complainant had no financial capacity to advance the amount of Rs.12,00,000/-, in the facts of the present case, does not assist the petitioner. The mere absence of documentary evidence regarding the source of funds, by itself, cannot automatically displace the statutory presumption arising under Sections 118(a) and 139 of the Negotiable Instruments Act. In the present case, the petitioner has not placed sufficient material before the courts below to establish a probable defence so as to shift the evidentiary burden back upon the complainant.

19.The further contention that the complainant was allegedly carrying on money-lending activity without a licence also does not by itself establish that the cheque amount was not legally recoverable. The petitioner has not established by acceptable evidence that the complainant was carrying on a business of money lending in violation of any statutory requirement or, more importantly, that the alleged transaction was itself void or that the debt represented by the cheques was not legally enforceable.

20.The contention based upon Section 269SS of the Income-tax Act also cannot be accepted. Even assuming that the mode of lending or acceptance of the amount was in violation of the provisions of the Income-tax Act, such violation, by itself, would not render the underlying transaction void or make the debt legally unenforceable for the purpose of Section 138 of the Negotiable Instruments Act. The consequences of violation of Section 269SS are contemplated under the Income-tax Act itself. Therefore, the said contention does not, by itself, rebut the statutory presumptions available in favour of the complainant.

21.The contention that no receipt or other documentary evidence was produced in support of the loan transaction also cannot be considered in isolation. In proceedings under Section 138 of the Negotiable Instruments Act, once the execution of the cheque is admitted, the statutory presumption operates in favour of the complainant. The accused is entitled to rebut the same by bringing on record a probable defence. In the present case, the defence regarding the alleged loan of Rs.5,00,000/- to the petitioner's husband and the subsequent repayment has been specifically considered by the courts below and was found to be unsupported by acceptable evidence.

22.The contention that the cheques were issued only as security cheques also does not, by itself, absolve the petitioner from liability. The mere description of a cheque as a "security cheque" is not sufficient to conclude that no legally enforceable liability existed. The material question is whether there was a subsisting legally enforceable debt or liability when the cheque was presented for encashment. In the present case, the petitioner has failed to establish that the alleged underlying liability had been discharged before presentation of Ex.P1 and Ex.P2 cheques.

23.The evidence further establishes that Ex.P1 and Ex.P2 cheques were presented for collection and were returned unpaid with the endorsement "Funds Insufficient". Thereafter, the complainant issued the statutory notice dated

28.02.2022, which was admittedly received by the petitioner on 07.03.2022. Despite receipt of the statutory notice, the petitioner neither paid the cheque amounts nor issued any reply. Thus, the necessary ingredients for constituting the offence under Section 138 of the Negotiable Instruments Act have been duly considered by the courts below.

24.This Court finds that the Trial Court and the Appellate Court have concurrently recorded findings based upon the evidence available on record. The Appellate Court has considered the defence of the petitioner that the cheques were issued by her husband as security, the admission of the signatures on the cheques, the dishonour of the cheques, the statutory notice and the absence of legally acceptable evidence in support of the defence. No patent illegality, perversity or material irregularity is demonstrated in the concurrent findings of the courts below.

25.As regards the contention relating to the sentence imposed in respect of the two cheques, the petitioner has not demonstrated any patent illegality or jurisdictional infirmity warranting interference in revision. The Trial Court imposed three months Simple Imprisonment in respect of each cheque and directed the sentences to run consecutively, apart from directing payment of compensation of Rs.12,00,000/- under Section 357(3) Cr.P.C. The said sentence was considered and confirmed by the Appellate Court. In the absence of any manifest illegality warranting revisional interference, this Court is not inclined to interfere with the same.

26.It is also relevant to take note of the subsequent conduct of the petitioner during the pendency of the proceedings. The matter was referred for mediation, but the same failed. Thereafter, this Court granted an opportunity to the petitioner to comply with the condition of deposit of 20% of the cheque amount by order dated 25.04.2024. Subsequently, a learned Co-ordinate Bench, by order dated 19.07.2024, directed the petitioner to deposit a further 30% of the cheque amount to the credit of S.T.C.No.197 of 2022 on the file of the Learned Judicial Magistrate, Sholinghur. However, the said condition has admittedly not been complied with.

27.The failure to comply with the conditional order of this Court is certainly a relevant circumstance while considering the conduct of the petitioner during the pendency of the proceedings. However, this Court does not propose to decide the present revision solely on the ground of such non-compliance. The revision has been considered on its merits and this Court has independently examined the grounds raised by the petitioner as well as the findings recorded by the courts below.

28.It is well settled that a Criminal Revision Case is not a second appeal.

The revisional jurisdiction of this Court is limited and, where the Trial Court and the Appellate Court have concurrently arrived at findings of fact on proper appreciation of the evidence, interference is warranted only when such findings suffer from patent illegality, perversity, gross miscarriage of justice or jurisdictional error.

29.In the present case, the petitioner has failed to demonstrate any such patent illegality, perversity, jurisdictional infirmity or miscarriage of justice in the judgments of the courts below. The grounds raised by the petitioner essentially seek re-appreciation of the evidence and a fresh assessment of the defence already considered and rejected by both the courts below. Such re-appreciation is not warranted in exercise of the limited revisional jurisdiction of this Court.

30.In view of the foregoing discussion, this Court finds that the respondent/complainant has established the foundational facts necessary to attract the statutory presumptions under Sections 118(a) and 139 of the Negotiable Instruments Act and that the petitioner has failed to rebut the said presumptions by raising a probable and substantiated defence. The courts below have properly appreciated the evidence and arrived at concurrent findings which do not call for interference by this Court.

31.Consequently, this Criminal Revision Case is devoid of merits and is liable to be dismissed.

32.Accordingly, this Criminal Revision Case is **dismissed**. The judgment passed by the Learned Judicial Magistrate, Sholinghur, in S.T.C.No.197 of 2022 dated 28.03.2023 and confirmed by the Learned II Additional District and Sessions Judge, Vellore at Ranipet, in C.A.No.90 of 2023 dated 05.02.2024 stand **confirmed**. There shall be no order as to costs.

33.The Learned Judicial Magistrate, Sholinghur, is directed to take immediate and appropriate steps, in accordance with law, to secure the presence of the petitioner/accused to undergo the remaining period of sentence and to recover the compensation amount, if any amount remains unpaid.

34.Let a copy of this order be sent by the Registry of this Court to the Learned Judicial Magistrate, Sholinghur, for necessary compliance and information.

31-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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SHAMIM AHMED, J.

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To

1. The IInd Additional District and Sessions Judge, at Vellore, Ranipet.

2.The Judicial Magistrate Court at Sholinghur.

3.The Public Prosecutor, Madras High Court.

CRL RC No. 869 of 2024

31-07-2026