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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-10-2026

CORAM

THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL RC No. 1677 of 2024

CNR: {HCMA011387942024}

R.Sudhagar
Son Of Ramalingam, No.5/461, Sethu Nagar,
Muthupettai, Ramand.

Case QR

..Petitioner(s)

Vs

K.Sethikumar
Son Kasi Nadar, No.1, Chairman Illam,
Kolapakkam, Main Road, Suramangalampet,
Pallineliyuanur Post Pondicherry.

..Respondent(s)

Prayer: To call for the records relating to the judgment dated 30.11.2023 made in C.A.No.42 of 2023 on the file of the Additional District Court (FTC), Villupuram confirming the conviction imposed in the judgment dated 02.03.2023 made in S.T.C.No.822 of 2019 on the file of the learned Judicial Magistrate No.II, Villupuram and set aside the same by allowing this Criminal Revision Petition and thus render justice.

For Petitioner(s): Mr. A.Samson

For Respondent(s): No appearance.

ORDER

This Criminal Revision Case has been filed praying to set aside the judgment dated 30.11.2023 passed in C.A. No.42 of 2023 on the file of the learned Additional District Judge, Fast Track Court, Villupuram, confirming the

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judgment dated 02.03.2023 passed in S.T.C. No.822 of 2019 on the file of the learned Judicial Magistrate No.II, Villupuram, whereby the petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881, and sentenced to undergo ten months' simple imprisonment and to pay compensation of Rs.10,00,000/- with interest at 9% per annum from the date of dishonour, in default, to undergo two months' simple imprisonment.

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 of the Negotiable Instruments Act, alleging that the petitioner had borrowed a sum of Rs.10,00,000/- from him for his business and family expenses and had issued a cheque towards discharge of the said liability. According to the respondent, the cheque was presented for collection and was dishonoured. Consequently, after the statutory notice and the failure of the petitioner to pay the cheque amount, the respondent instituted a private complaint before the learned Judicial Magistrate No.II, Villupuram.

3.The learned Judicial Magistrate No.II, Villupuram, by judgment dated 02.03.2023 in S.T.C. No.822 of 2019, convicted the petitioner for the offence under Section 138 of the Negotiable Instruments Act and sentenced him to undergo ten months' simple imprisonment and to pay compensation of Rs.10,00,000/- with interest at 9% per annum from the date of dishonour,

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payable within one month, in default, to undergo two months' simple imprisonment. Aggrieved by the said judgment, the petitioner preferred an appeal in C.A. No.42 of 2023 before the learned Additional District Judge, Fast Track Court, Villupuram. The appellate Court, by judgment dated 30.11.2023, dismissed the appeal and confirmed the conviction and sentence imposed by the trial Court. Challenging the same, the petitioner has preferred the present Criminal Revision Case.

4.The principal grounds raised by the petitioner are that the courts below failed to appreciate the evidence properly and that the alleged loan transaction was not established by reliable evidence. It is contended that the cheque was issued as security for a loan which had already been repaid and that the complainant had admitted during cross-examination that he had allegedly advanced only Rs.3,00,000/- in cash in five instalments without specifying the dates of the transactions. The petitioner further contends that the complainant had not established the purpose or circumstances of the alleged loan, that the cheque was not sent for forensic examination to verify the handwriting and signature, and that the statutory presumption under Section 139 of the Negotiable Instruments Act had been rebutted. On these grounds, the petitioner seeks interference with the concurrent findings of the courts below.

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5.It is seen from the records that the petitioner initially filed a petition seeking condonation of the delay of 149 days in filing the Criminal Revision Case. While considering the said petition, this Court, by order dated 26.09.2024, recorded the objections raised by the learned counsel for the respondent regarding the delay and the undertaking given by the learned counsel for the petitioner to deposit 50% of the cheque amount, namely, Rs.5,00,000/-, to the credit of S.T.C. No.822 of 2019 at the time of admission. The learned counsel for the respondent submitted that he had no serious objection to condonation of the delay if the said amount was deposited. In view of the same, the delay was condoned, and the petitioner was directed to produce proof of deposit of Rs.5,00,000/- before the trial Court at the time of admission.

6.Thereafter, in Crl.M.P. No.13858 of 2024 in Crl.R.C. No.1677 of 2024, this Court, by order dated 14.10.2024, considered the petitioner's request for suspension of sentence. The relevant portions of the said order are extracted hereunder:

> "6.In view of petitioner already deposited 50% of the cheque amount, i.e., Rs.5,00,000/- to the credit of S.T.C.No.822 of 2019 and the specific undertaking given by the petitioner that he is ready to deposit balance 50% of the cheque amount, i.e., Rs.5,00,000/- and also finding that the petitioner is confined in Central Prison, Cuddalore from 11.07.2024, the offence being a bailable offence and it is merely on technicality of dishonour of

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cheque, this Court is inclined to suspend the sentence imposed on the petitioner.

7.Accordingly, the substantial sentence of imprisonment imposed on the petitioner is suspended and bail is granted with the following conditions:

(i) The petitioner is directed to execute a personal bond before the Superintendent of Prison, Central Prison, Cuddalore and on execution of the same, the Superintendent of Prison, Central Prison, Cuddalore shall release the petitioner forthwith, if he is not required in any other case;

(ii) After coming out of the prison, the petitioner shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only) (50% of the cheque amount) to the credit of S.T.C.No.822 of 2019 on the file of Judicial Magistrate No.II, Villupuram or by way of Demand Draft directly to the respondent/complainant, within a period of two months from today;

(iii) Thereafter, the petitioner shall execute a bond for Rs.5,000/- with two sureties, each for a likesum to the satisfaction of the learned Judicial Magistrate No.II, Villupuram, within a period of 15 days from the date of release;

(iv) The respondent is permitted to withdraw the amount of Rs.5,00,000/- already deposited to the credit of S.T.C.No.822 of 2019 after filing appropriate petition before the trial Court. The trial Court can order withdrawal of the said amount without notice to the petitioner.

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8.Accordingly, this Criminal Miscellaneous Petition is ordered.

9.Post the matter on 07.01.2025 'For Reporting Compliance' or passing further orders."

7.When the matter was subsequently taken up on 07.01.2025, it was recorded that the petitioner had not complied with the conditions and undertaking given before this Court. The learned counsel for the petitioner submitted that the petitioner would file a petition seeking extension of time. The matter was thereafter posted to 21.09.2026. The subsequent proceedings indicate that the matter was again directed to be called on 12.10.2026.

8.When the matter is taken up for hearing today, this Court has considered the previous orders passed in the case and the fact that the petitioner has not complied with the undertaking recorded in the order dated 14.10.2024 to deposit the balance sum of Rs.5,00,000/- within two months. The records placed before this Court do not disclose compliance with the said condition. The petitioner was granted suspension of sentence on the specific undertaking that the balance amount would be deposited within the stipulated period. The said undertaking formed a material consideration for granting the relief.

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9.This Court has carefully considered the grounds raised by the petitioner and perused the judgments passed by both the courts below. The principal defence of the petitioner is that the cheque was issued as security for a loan which had already been repaid and that the complainant failed to establish the alleged transaction. However, under Sections 118 and 139 of the Negotiable Instruments Act, once the execution of the cheque is established or admitted, the statutory presumptions arise in favour of the holder of the cheque. The accused may rebut those presumptions by raising a probable defence on the basis of the evidence and surrounding circumstances. The burden on the accused is one of preponderance of probabilities.

10.In the present case, the trial Court considered the evidence placed before it and found the petitioner guilty of the offence under Section 138 of the Negotiable Instruments Act. The appellate Court thereafter reassessed the materials and confirmed the conviction. The contentions regarding repayment of the loan, the alleged security nature of the cheque, the complainant's financial capacity and the absence of independent evidence are matters that must be examined in the light of the evidence on record. The petitioner has not demonstrated any patent illegality, perversity or material irregularity in the concurrent findings of the courts below warranting interference in revisional jurisdiction.

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11.It is well settled that the revisional jurisdiction of this Court is not equivalent to a second appellate jurisdiction. In the absence of a manifest error of law, perversity in the appreciation of evidence or a miscarriage of justice, this Court would not ordinarily interfere with concurrent findings of fact recorded by the courts below. On the materials presently available, this Court finds no sufficient ground to interfere with the conviction and sentence imposed upon the petitioner.

12.This Court also takes note of the petitioner's failure to honour the undertaking recorded in the order dated 14.10.2024. The petitioner had deposited Rs.5,00,000/- and specifically undertaken to deposit the balance Rs.5,00,000/- within two months. The respondent had expressed willingness to accept the balance amount and, upon receipt thereof, to initiate proceedings for compounding the offence under Section 147 of the Negotiable Instruments Act. However, the balance amount has not been deposited within the time granted, and the subsequent proceedings do not establish compliance with the condition. The petitioner cannot claim continuation of the benefit of suspension of sentence without complying with the conditions on which such relief was granted.

13.In the above circumstances, this Court finds that the petitioner has not made out any ground warranting interference with the concurrent findings of the

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courts below. The Criminal Revision Case is devoid of merit and is liable to be dismissed.

14.Accordingly, this Criminal Revision Case is **dismissed**, and the judgment dated 30.11.2023 passed by the learned Additional District Judge, Fast Track Court, Villupuram, in C.A. No.42 of 2023, confirming the conviction and sentence imposed by the judgment dated 02.03.2023 passed by the learned Judicial Magistrate No.II, Villupuram, in S.T.C. No.822 of 2019, stands **confirmed**.

15.In view of the petitioner's failure to comply with the conditions imposed by this Court in the order dated 14.10.2024, the **suspension of sentence** granted therein shall stand **vacated**. The learned Judicial Magistrate No.II, Villupuram, is directed to take immediate and appropriate steps in accordance with law to secure the presence of the petitioner to undergo the sentence imposed by the courts below. The amount already deposited by the petitioner shall be dealt with in accordance with the orders passed by this Court and the applicable law.

16.There shall be no order as to costs.

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17.Let a copy of this order be communicated by the Registry to the learned Judicial Magistrate No.II, Villupuram, for necessary compliance and information.

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

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To

1.The Additional District Court (FTC), Villupuram.

2.The Judicial Magistrate No.II, Villupuram.

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SHAMIM AHMED, J.

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