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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-10-2026

CORAM

THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL RC No. 672 of 2022

CNR:{HCMA010743492022}

Case QR

M.Suresh Kumar

..Petitioner(s)

Vs

M/s.M.K.Tex
Rep by its Partner Karthikeyan

..Respondent(s)

PRAYER: This revision case has been filed seeking to set aside the judgment dated 17.03.2021 made in S.T.C.No.37 of 2018 on the file of the Judicial Magistrate, Fast Tract Court at Magisterial Level, Tiruppur and confirmed by the lower Appellate Court made in C.A.No.26 of 2021 dated 21.04.2022 on the file of the II Additional District and Sessions Judge at Tiruppur and acquit the revision petitioner.

For Petitioner(s): No appearance

For Respondent(s): Ms. B. Dharani

ORDER

When the matter is taken up for hearing today, there is no representation on behalf of the petitioner, though the name of Ms. Abhinaya, learned counsel

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for the petitioner, is printed in the cause list. Ms. Dharani, learned counsel for the respondent, is present and advances her arguments.

2. This Court, by order dated 09.06.2022, passed the following order:

> This petition is filed to exempt the petitioner from surrendering before the learned Judicial Magistrate, Fast Track Court at Tiruppur in STC.No.37 of 2018, pending the disposal of the present Criminal Revision Case.
>
> 2. I have perused the petition filed for exemption and I am not satisfied with the reasons mentioned in the application.
>
> 3. The Judgment of the Hon'ble Supreme Court of India in Surya Baksh Singh Vs. State of U.P.', has held in paragraph No.25, which reads as follows:-
>
> > *"The routine is to file an appeal, apply and get enlarged on bail or get exempted from surrender, and thereafter wilfully to become untraceable or unresponsive. It is the bounden duty cast upon the Judge not merely to ensure that an innocent person is not punished but equally not to become a mute spectator to the spectacle of the convict circumventing his conviction."*
>
> Similarly, in the Judgment of the Hon'ble Supreme Court of India, in Vivek Rai v. High Court of Jharkhand, in paragraph No.3, has held as hereunder:-

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> *"We do not find any merit in the challenge to the validity of the Rule. It is well-known practice that generally a revision against conviction and sentence is filed after an appeal is dismissed and the convicted person is taken into custody in the Court itself. The object of the Rule is to ensure that a person who has been convicted by two courts obeys the law and does not abscond. The provision cannot thus be held to be arbitrary in any manner. The provision is to regulate the procedure of the Court and does not, in any manner, conflict with the substantive provisions of CrPC relied upon by the petitioners."*

Therefore, this Court is of the opinion that in a routine manner, exemption from surrender cannot be granted.

4. In this case, there is no special and acceptable reasons assigned in the application for grant for exemption from surrender. Therefore, the Criminal Miscellaneous Petition for exemption shall stand dismissed. However, one more opportunity is granted to the petitioner to surrender before 26.06.2022.

3. Thereafter, the learned Co-ordinate Bench of this Court on 28.06.2022, has passed the following order:

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''In spite of the order passed by this Court on 09.06.2022 to surrender, it is seen that the petitioner has not surrendered. Therefore, the suspension of sentence petition stands dismissed.

2.The trial Court is entitled to issue/execute warrant and commit the petitioner to prison to serve the sentence.''

4. Subsequently, when the matter was listed on 01.07.2022, this Court passed the following order:

''When the matter was taken up for hearing, none appeared on behalf of the petitioner.

2.Ms.Dharani, learned counsel appearing on behalf of the respondent prays for four weeks time to file a counter affidavit.

3.Accordingly, considering the request made by the learned counsel for the respondent, four weeks and no more time is granted to file a counter affidavit for the respondent and thereafter, two weeks time is granted to the learned counsel for the petitioner to file a rejoinder affidavit to the counter affidavit filed by the respondent.

4.Put up this case 'for final hearing' on 22.09.2026.

5.In the meantime, the learned counsel for the petitioner is directed to supply the entire paper book to the learned counsel for the respondent''.

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5. Thereafter, when the matter was taken up for hearing on 01.10.2026, the Coordinate Bench of this Court passed the following order:

> ''When the matter was taken up for hearing on 23.09.2026, there was no representation on behalf of the petitioner. Hence, the Registry was directed to list the matter under the caption ''for orders'' on 01.10.2026.
>
> 2.Even today i.e., 01.10.2026, when the matter was taken up for hearing, there is no representation for the petitioner. Hence, Ms.Abinaya.M.S., Enrollment No.MS 4568/2023, Advocate having office at No.3 & 4, Murugan 2nd Street, Villivakkam, Kolathur, Chennai-600 049, Mobile No.63690 98936, is appointed as Legal Aid Counsel to assist this Court on behalf of the petitioner.
>
> 3. Registry is directed to print the name of Ms. Abinaya. M.S. as Legal Aid Counsel to represent the petitioner.
>
> 4. Post the matter under the caption 'For Orders' on 09.10.2026''.

6. The present Criminal Revision Case arises out of the conviction of the petitioner for the offence punishable under Section 138 of the Negotiable

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Instruments Act, 1881. The learned Judicial Magistrate, Fast Track Court (Magisterial Level), Tiruppur, by judgment dated 17.03.2021 in S.T.C. No.37 of 2018, convicted the petitioner. The learned appellate court, upon reappreciation of the evidence, dismissed the appeal and confirmed the conviction and sentence imposed by the trial court.

7. The case of the respondent/complainant is that the complainant, a partnership concern carrying on business in hosiery yarn and cloth under the name and style of M.K. Tex, had commercial transactions with the petitioner, who was engaged in the manufacture and export of hosiery garments under the name and style of V.S. Knit Fabs. Towards the outstanding liability arising from the business transactions, a cheque bearing No.046921 for a sum of Rs.12,98,700/- was issued. When the cheque was presented for collection, it was returned unpaid for the reason of insufficiency of funds. Despite the issuance of a statutory demand notice, the amount was not paid, resulting in the complaint under Section 138 of the Negotiable Instruments Act.

8. The principal grounds raised by the petitioner are that the courts below failed to appreciate the evidence in its proper perspective; that the cheque was issued only as security in connection with transactions involving another business concern, namely, Vidya Sree Garments; that the cheque was

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subsequently misused by the complainant by filling in the particulars; and that the complainant failed to establish the passing of consideration and the existence of a legally enforceable debt. It is further contended that the petitioner had rebutted the statutory presumption under Section 139 of the Negotiable Instruments Act by eliciting material admissions from P.W.1 in cross-examination and by raising a probable defence. The petitioner has also questioned the alleged inconsistency in the complainant's evidence and the failure of the courts below to consider the circumstances surrounding the issuance and presentation of the cheque.

9. This Court has considered the grounds raised in the revision petition, the findings recorded by the courts below, and the submissions advanced by the learned counsel for the respondent. The question that arises for consideration is whether the concurrent findings of the courts below suffer from any illegality, perversity, or material irregularity warranting interference in the exercise of revisional jurisdiction.

10. The materials discussed by the learned appellate court disclose that the signature on the disputed cheque was admitted by the petitioner. Consequently, the statutory presumption under Section 139 of the Negotiable Instruments Act arose in favour of the complainant. Though such presumption

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is rebuttable, the burden rests upon the accused to raise a probable defence on the basis of the evidence and surrounding circumstances. The accused is not required to establish his defence beyond reasonable doubt; nevertheless, a mere denial of liability would not, by itself, be sufficient to rebut the statutory presumption.

11. In the present case, the learned appellate court specifically considered the defence that there was no legally enforceable liability and that another cheque had allegedly been issued in connection with a subsequent business concern on the understanding that the pending complaint would be withdrawn. However, the appellate court found that the petitioner had not substantiated the alleged compromise by producing supporting oral or documentary evidence.

12. Significantly, as recorded by the learned appellate court, the petitioner himself admitted in his chief-examination that goods worth Rs.35,49,120/- had been purchased from the complainant and that a sum of Rs.22,19,920/- had been paid, leaving a balance of Rs.13,29,200/-. The appellate court also referred to the petitioner's insolvency proceedings, in which the liability to the complainant was stated to be Rs.13,29,200/-. These circumstances were taken into account while assessing whether the statutory presumption had been rebutted.

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13. The contention that the cheque was issued only as security and related to the transactions of Vidya Sree Garments, rather than the liability arising out of the transactions with V.S. Knit Fabs, has also been considered in the light of the findings of the courts below. The mere description of a cheque as a security cheque does not, by itself, exclude the applicability of Section 138 of the Negotiable Instruments Act. The material question is whether a legally enforceable debt or liability existed when the cheque became payable and was presented for collection. In the present case, the courts below, upon considering the evidence and the petitioner's own admissions regarding the business transactions and outstanding amount, found that the defence raised by the petitioner did not displace the statutory presumption.

14. The further contention that the complainant filled in the particulars of the cheque, except for the signature, and that the cheque ought to have been referred to a handwriting expert does not, in the absence of material establishing a legally significant alteration or other infirmity affecting the instrument, warrant interference with the concurrent findings. The petitioner has not demonstrated, on the findings available in the judgments under challenge, that the alleged filling in of the cheque particulars rendered the instrument invalid or that the courts below committed a material error in appreciating the evidence.

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15. The other contentions relating to the complainant's alleged failure to initiate proceedings for the remaining outstanding amount, the financial consequences of the petitioner's buyer being declared insolvent abroad, and the alleged contradictions in the evidence of P.W.1 have to be assessed in the context of the entire evidence. The non-initiation of separate proceedings for the balance amount, by itself, does not disprove the liability represented by the cheque in question. Likewise, the petitioner's explanation under Section 313 Cr.P.C. and the defence concerning the alleged security cheque were considered by the courts below and were not found sufficient to rebut the statutory presumption. No specific material has been demonstrated to show that the findings of the courts below are based on a misreading of the evidence or that any material defence was overlooked so as to vitiate the judgments.

16. It is well settled that the jurisdiction of this Court under Sections 397 and 401 Cr.P.C. is supervisory and is not intended to provide another opportunity for a complete reappreciation of the evidence as in a second appeal. Interference is warranted where the findings suffer from patent illegality, perversity, a material error of law, or a miscarriage of justice. In the present case, the petitioner has not established any such infirmity in the judgments under challenge. The findings of the trial court, as affirmed by the appellate court, are supported by the evidence referred to in the judgments, including the

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admitted signature on the cheque and the petitioner's admissions concerning the underlying business transactions and outstanding liability.

17. In view of the above discussion, this Court finds no sufficient ground to interfere with the concurrent findings of the courts below. The conviction and sentence imposed on the petitioner for the offence under Section 138 of the Negotiable Instruments Act do not warrant interference in the exercise of revisional jurisdiction. The Criminal Revision Case is devoid of merit and is liable to be dismissed.

18. Accordingly, this Criminal Revision Case is **dismissed**. The judgment of conviction and sentence dated 17.03.2021 passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Tiruppur, in S.T.C. No.37 of 2018, as confirmed by the learned appellate court, stands confirmed. No costs.

19.The petitioner/accused is directed to surrender before the trial court to undergo the sentence imposed upon him. In the event of failure to surrender, the trial court is directed to take appropriate steps, in accordance with law, to secure his presence and enforce the sentence. The trial court shall also take appropriate steps, in accordance with law, for recovery of the compensation amount, if any, remaining unpaid.

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20. The Registry is directed to communicate a copy of this order to the trial court for necessary compliance.

09-10-2026

Neutral Citation: Yes/No

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To

1. The Judicial Magistrate, Fast Tract Court at Magisterial Level, Tiruppur
2.The II Additional District and Sessions Judge at Tiruppur

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SHAMIM AHMED J.

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CRL RC No. 672 of 2022

09-10-2026

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