

ITEM NO.29

COURT NO.17

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 4773/2025

[Arising out of impugned final judgment and order dated 27-11-2024 in CRLAMD No. 111/2021 passed by the High Court of Judicature at Madras at Madurai]

K.K.D. PANDIAN

Petitioner(s)

VERSUS

S. TAMILSELVI

Respondent(s)

IA No. 192729/2025 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS, IA No. 192727/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT AND IA No. 192728/2025 - EXEMPTION FROM FILING O.T.

Date : 18-08-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARAVIND KUMAR
HON'BLE MR. JUSTICE JOYMALYA BAGCHI

For Petitioner(s) :

Mr. Balaji Subramanian, Adv.
Mr. A. Lakshminarayanan, AOR
Mrs. Sathya Priya S, Adv.

For Respondent(s) :

UPON hearing the counsel the Court made the following
O R D E R

1. Delay condoned.
2. Learned counsel appearing for the petitioner has brought to the notice of this Court the law laid down by the High Court of Kerala in the case of C.V. Rajan Vs lllikkal Ramesan reported in 2015 SCC Online Ker 6780 where under, it has been held that the law does not prohibit a person repaying the amount which he obtained on some illegal promise. The petitioner intends to

buttress his arguments on the premise that even the agreement which is hit by Section-23 of the Indian Contract Act, 1872 would still be amenable to the jurisdiction of Section-138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act'), even though the amount so paid would not be recoverable but still on the ground that the said dispute had ended in a compromise which resulted in issuance of a cheque which remained unpaid and in such circumstances proceedings can be initiated under Section 138 of the N.I. Act.

3. *Prima facie*, we are of the view that the said principle would be inapplicable in the background of the expression used in Section-138 of the NI Act and the same would not be considered as a "legally enforceable debt", the view taken by the Kerala High Court may not be in consonance with the statutory provisions. Hence, for this limited purpose, we order for issuance of notice to the respondent, returnable in six weeks.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(AVGV RAMU)
COURT MASTER (NSH)