



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-07-2026

CORAM

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THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

**CRL OP No. 17939 of 2026
& CRL MP No. 11986 of 2026**

T.Jabaraj Nelson
S/o. M.Thomas,
D.No.10, Sree Valli Nagar,
Avaramaplayam,
Coimbatore.44

..Petitioner(s)

Vs

K.Venkatesh
S/o. Kondasamy,
D.No.38, Balasundaram Street,
Avarampalayam,
Coimbatore-641 044.

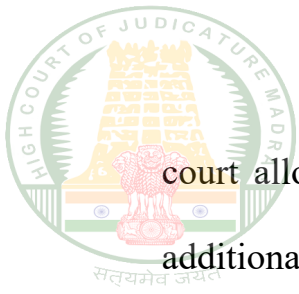
..Respondent(s)

PRAYER: This Criminal Original Petition has been filed under Section 528 BNSS, praying to set aside the order dated 01.04.2026 CMP.No.5118 of 2023 in C.A.122 of 2016 on the file of IV Additional District and Sessions Judge, Coimbatore and thus render Justice.

For Petitioner(s): R.Rajarajan

ORDER

The prayer in Criminal Original petition is to set aside the order dated 01.04.2026 in CMP No. 5113 of 2023 in C.A NO. 122 of 2016 on the file of IV Additional District and Sessions Judge, Coimbatore. By the said order trial



court allowed the application filed by the respondent/complainant to produce additional evidence.

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2. It can be seen that the case is a private complaint filed by the respondent complainant complaining an offence under Section 138 of the Negotiations Instruments Act. After considering the entire evidence on record, the petitioner/accused is acquitted by the Trial Court. It is the contention of the Learned Counsel for the petitioner that in order to fill up the lacuna, artificially and unnecessarily, a Varthamana document is now introduced by way of an additional evidence. The Learned counsel would submit that firstly, the contention of the respondent is that the document was not traceable during the trial. But, however, not even any mention is made in the complaint regarding the existence of the Varathamana document. And therefore, the same is a falsely concocted document created only for the purpose of the case. It is his second contention that even in the said document, a different cheque number is mentioned and the subject matter cheque is not mentioned and therefore, it is not relevant. The learned counsel would also rely upon the judgment of the Honorable Supreme Court of India in ***Ajithsingh Chehhji Rathod Vs. State of Gujarat and Anr. (2024) INSC 63***, more specifically relying upon paragraph 9 to contend that the Appellate Court must be loath in readily accepting such additional evidence, especially in criminal cases where the prayer is made to turn the acquittal into one of conviction. Merely on the



Ipse dixit of the complainant the Trial Court accepted the additional evidence.

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3. I have considered the rival submissions on either side and perused the materials available on record.

4. The mere allowing the application for production of additional documents will not be a final decision with reference to proof and relevancy of the document. As far as the permission for additional document is concerned, considering the plea made by the complainant that he has lost the Varthamana document during the course of trial and only at appellate stage he has retrieved it, the Trial Court has accepted the position. That by itself will not mean that the Court has accepted the Varthamana Document as genuine or that it is relevant to the issue germane in the case. When the additional documents are being considered, naturally the appellate Court will take such evidence on its own or will request the trial court to take record further evidence so as to mark the document. The petitioner will be entitled to cross examine the witness as to non mentioning of the Varthamana document in the pleadings, namely the complaint or with reference to falsity of the same or also with reference to the relevance of the same. Even due objections for marking the document is kept open. The petitioner can also duly object to marking of the said document and it will be considered at relevant point of time. Therefore, when the lower appellate Court has exercised its discretion to permit additional documents, Considering the facts and circumstances of the case. I am of the view that it is not a fit case



requiring interference of this Court in exercise of the extraordinary powers under Section 528 of BNSS.

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5. In view thereof, keeping open the aforesaid liberties to the petitioner to agitate the matter when the evidence is being recorded and the lower appellate court to consider the above observations. Accordingly, this Criminal Original Petition is disposed of. Pending petition, if any, is closed.

10-07-2026

Neutral Citation: Yes/No

PBL

To

1. The IV Additional District and Sessions Judge, Coimbatore.
2. The Section officer, V. R Section, High court, Madras.



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D.BHARATHA CHAKRAVARTHY, J.

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