



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-07-2026

CORAM

THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL RC No. 1480 of 2026

Santhana Kumar, S/o.T.R.Ettiappa Mudaliar (late),
Proprietor J.K.V.Foundations, Head Office at
No.17/1, Tank Street, Thirumulaivayal, Chennai -
600 002.

..Petitioner(s)

Vs

M/s. Capital Investment and Holding Company
Rep by Murali, NO.148/298, Yousf Raja Tower,
Peters Road, Chennai - 600 086.

..Respondent(s)

Prayer:- This Criminal Revision Case is filed to set aside the, order, dated 02.07.2026, passed in Crl.MP.No.11953 of 2025, in C.A.No.1082 of 2024, by the XVII Additional Sessions Judge, City Civil Court, Chennai and permit the Bank Managers to produce the statement of accounts in the appeal proceedings.

For Petitioner(s): T.Muruganantham

ORDER

1. Since this Criminal Revision Case is being disposed of, at the admission stage itself and in view of the order to be passed in this petition, notice to the Respondent is dispensed with.
2. This Criminal Revision Case is filed to set aside the, order, dated 02.07.2026, passed in Crl.MP.No.11953 of 2025, in C.A.No.1082 of 2024, by the XVII Additional Sessions Judge, City Civil Court, Chennai and permit the Bank Managers to produce the statement of accounts in the appeal proceedings.



3. The facts of the case are that the Revision Petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act, in STC.No.7172 of 2018, filed by the Respondent/ complainant, in respect of dishonour of a cheque, bearing No.71888, dated 21.06.2016, for a sum of Rs.1,00,00,000/-, before the Metropolitan Magistrate Court, FTC 2, Egmore. As against the same, the Revision Petitioner had filed an appeal in CA.No.1082 of 2024, before the XVII Additional Sessions Judge, City Civil Court, Chennai. The Revision Petitioner had filed Crl.MP.No.11953 of 2025 under Section 432 of BNSS to examine the additional witnesses and for production of certain documents, before the lower appellate court. By the impugned order, dated 02.07.2026, the said application was dismissed. Hence, this Criminal Revision Case has been filed, by the Revision Petitioner/ accused, seeking the relief as stated above.

4. This Court heard the learned counsel for the Petitioner and considered his submissions and also perused the entire materials placed on record.

5. It is the case of the Revision Petitioner that the application in Crl.MP.No.45344 of 2024, seeking examination of four witnesses (two Banks Managers of the Indian Banks and the Manger of the Axis Bank and the Manager of the Bank of Ceylon) was dismissed by the Trial Court and that the examination of the above said witnesses is vital and necessary to establish the true nature of transaction, source, purpose and the manner, in which the alleged liability was created or discharged.



6. It was the case of the Respondent before the lower appellate court that as against the order of dismissal of Crl.MP.No.45344 of 2024, filed by the Revision Petitioner, seeking to examine the very same four witnesses, before the Trial Court, no appeal or revision was preferred by the Revision Petitioner and hence, the matter had already reached finality and therefore, the Petition filed under Section 432 of BNSS, seeking to examine the very same four witnesses and mark certain documents through them, is not maintainable.

7. At the outset, it is relevant to quote Section 432 of BNSS, 2023, as under:-

“432. Appellate Court may take further evidence or direct it to be taken:-

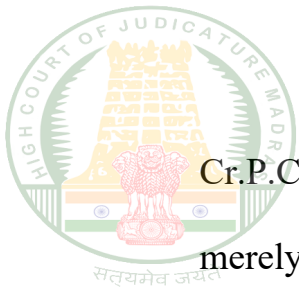
(1) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons and may either take such evidence itself, or direct it to be taken by a Magistrate or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

(2) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(3) The accused or his advocate shall have the right to be present when the additional evidence is taken.

(4) The taking of evidence under this section shall be subject to the provisions of Chapter XXV, as if it were an inquiry.”

8. Section 432 of BNSS, which corresponds to Section 391 of Cr.P.C, deals with power of the Appellate Court to take further evidence. It is pertinent to note that the appellate Court can allow additional evidence under Section 391



Cr.P.C., only in exceptional circumstances and the same cannot be used merely to fill up lacuna, that might exist in the evidence. When an Appellate Court, dealing with any appeal under this Chapter, thinks additional evidence to be necessary, it shall record its reasons for doing so.

9. The Honourable Supreme Court, in the case of **Ajitsinh Chehuji Rathod Vs. State of Gujarat and another (2024 Live Law SC 64)**, was pleased to observe that the power to record additional evidence at the appellate stage should not be exercised in a routine and casual manner and such a power can only be exercised when non-recording of the evidence may lead to failure to justice. The Honourable Supreme Court was pleased to observe as under:-

“At the outset, we may note that the law is well-settled by a catena of judgements rendered by this Court that power to record additional evidence under Section 391 CrPC should only be exercised when the party making such request was prevented from presenting the evidence in the trial despite due diligence being exercised or that the facts giving rise to such prayer came to light at a later stage during pendency of the appeal and that non recording of such evidence may lead to failure of justice.”

10. The power, to record additional evidence, should only be exercised, when a party making such request, was prevented from presenting the evidence in the trial, despite due diligence being exercised or that the facts giving rise to such prayer came to light at a later stage during the pendency of the appeal and that the non-recording of such evidence may lead to failure of justice.

11. In this case, on perusal of the records, it is seen that the lower appellate court has found that the application was filed by the Revision Petitioner,



WEB COPY

seeking to examine (1) the Manager of the Indian Bank, Teynampet Branch, Chennai, (2) the Manager of Axis Bank, T.Nagar Branch, Chennai, (3) the Manager of the Indian Bank, Thirumullaivoyal Branch, Chennai and (4) the Manager of Bank of Ceylon, Egmore, Chennai, to mark the statements of certain bank accounts and that the purpose, for which, the said witnesses were sought to be examined, is not at all explained and that even the examination of the said witnesses are not all necessary, because the relevant records issued by the said bankers were already filed by the Respondent/ complainant, in the complaint.

12.It was further held by the lower appellate court that the plea of the Revision Petitioner that the statement of accounts are necessary to prove the true nature of transaction, source, purpose and the manner, in which the alleged liability was created or discharged, is vague and that as against the order of dismissal of Crl.MP.No.45344 of 2024, filed by the Revision Petitioner, seeking to examine the very same four witnesses, before the Trial Court, no appeal or revision was preferred by the Revision Petitioner and hence, the matter had already reached finality and therefore, the Petition filed under Section 432 of BNSS, seeking to examine the very same four witnesses, is not maintainable.

13.Even before this Court, the learned counsel for the Revision Petitioner is not able to point out any valid ground to examine the said witnesses and to mark additional documents as additional evidence through them. The Revision



Petitioner is also not able to demonstrate that the facts, giving rise to such prayer, came to light, at a later stage during the pendency of the appeal and that the non-recording of such evidence may lead to failure of justice.

14. Considering the entire facts and circumstances of the case and the stage, at which the above petition came to be filed, this Court is of the view that there is no necessity for examining the said witnesses and marking the additional documents through them and that the above petition came to be filed only to protract the proceedings and pronouncement of judgement, by the lower appellate court, as much as possible and as such, the impugned order cannot be found fault with, as there is no infirmity or perversity in the impugned order, dismissing the Petition and that the Criminal Revision Case is devoid of merits and accordingly, the same is liable to be dismissed.

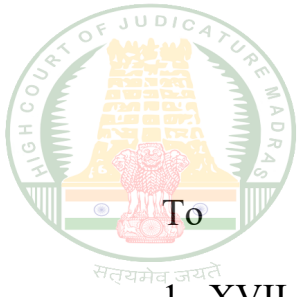
15. In the result, in view of the above said discussions and reasons and in the light of the decision of the Honourable Supreme Court, referred to above, this Criminal Revision Case is dismissed.

16. Let a copy of this order be sent to the lower appellate court, for its compliance and information, by the Registry, forthwith.

22-07-2026

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

SRCM/RLI



To

1. XVII Additional Sessions Judge, City Civil Court, Chennai

WEB COPY



WEB COPY

CRL RC No. 1480 of 2



SHAMIM AHMED, J.

SRCM/RLI

CRL RC No. 1480 of 2026

22-07-2026