IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.161 of 2025
and Crl.M.P.No.1276 of 2025

T.Santhakumari ... Petitioner

Vs.

R.Sakthivel ... Respondent

PRAYER: Criminal Revision has been filed under Section 438 r/w 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to set aside the order of dismissal of the Crl.M.P.No.70749 of 2024 in S.T.C.No.10105 of 2023 dated 27.12.2024 by taking into consideration of the documents and memorandum of grounds and allow the criminal revision petition.

For Petitioner	:	Mr.S.Sridhar
For Respondent	:	Mr.S.Anand Venkatesh For Mr.L.K.Manjunath

ORDER

This Criminal Revision has been preferred as against the order dated 27.12.2024, passed by the learned XXV Metropolitan Magistrate, Egmore, Chennai, in Crl.M.P.No.70749 of 2024 in S.T.C.No.10105 of 2023, thereby dismissing the petition filed by the petitioner under Section 39 r/w. 72 of the Bharatiya Sakshya Adhiniyam, 2023.

2. The petitioner is an accused in the complaint lodged by the

respondent for the offence punishable under Section 138 of the Negotiable Instruments Act (hereinafter referred to as “the NI Act”), alleging that the petitioner owned property to an extent of 0.48 ares comprised in survey No.920/1C situated at No.54, Korattur Village, Ambattur Taluk, Chennai District. The petitioner and her husband are well acquainted with the respondent and therefore they approached the respondent for a loan of Rs.45,00,000/- to develop and promote their property. Accordingly, the respondent had lent an amount of Rs.45,00,000/- by execution of simple mortgage deed in respect of the property in favour of the respondent on 19.09.2018 registered vide document No.5041 of 2018. After execution of simple mortgage deed, the petitioner had additionally borrowed a sum of Rs.62,00,000/- on various occasions by way of cash for her personal and day to day expenses. They also had admitted and acknowledged the said liability by way of receipt dated 20.08.2020 for a sum of Rs.62,00,000/-. The petitioner's husband is a retired Tahsildar and he had signed as first witness to the receipt. Thereafter, they had executed second mortgage deed dated 09.09.2020, which was registered vide document No.3357 of 2020. The petitioner also promised to repay the said amount with interest at the rate of 24% per annum.

3. Thereafter, On 16.05.2023, the petitioner had entered into sale agreement, which was already under the mortgage deed in favour of the

respondent and offered to settle the entire loan amount. Therefore, they went to Registrar Office and requested the respondent to execute a discharge receipt. As on 06.05.2023, the petitioner was liable to pay a sum of Rs.2,43,78,600/-. In view of the said request, the respondent was present before the Registrar Office on 16.05.2023, and the petitioner had issued a cheque for a sum of Rs.2,40,00,000/-, after deducting a sum of Rs.3,78,600/- and requested to execute discharge receipt. However, the respondent refused to execute any receipt and it will be executed after full and final settlement to discharge the entire liability.

4. As directed by the petitioner, the respondent presented the cheque for collection. However, it was returned dishonoured for the reason "funds insufficient". After issuance of notice, the respondent filed the present complaint and the same was taken cognizance by the trial Court in S.T.C.No.10105 of 2023. While pending trial, the petitioner filed a petition to send the alleged cheque for the handwriting expert's opinion and the same was dismissed by the trial Court. Hence, the petitioner filed the present revision case.

5. The learned counsel appearing for the petitioner submitted that

after receipt of the statutory notice, the petitioner had issued reply notice objecting the signature found in the cheque and other amount were filled up by the respondent. The petitioner did not issue the alleged cheque at any point of time, that too to the tune of Rs.2,40,00,000/-. Therefore, while pending trial, after examination of the respondent in chief, the petitioner filed the present petition.

6. The learned counsel appearing for the respondent submitted that the respondent was in box for cross-examination. Without cross-examining the respondent, in order to drag the proceedings, the petitioner filed the present petition to obtain handwriting expert's opinion. In fact, the petitioner admitted her signature found in the cheque. Therefore, she cannot file this petition that too without cross-examining P.W.1, to get handwriting expert's opinion. In fact, the petitioner already filed petition under Section 91 of Cr.P.C., for production of Income Tax Returns. It was dismissed by the trial Court and the same was also confirmed by this Court in Crl.O.P.No.21976 of 2024 by an order dated 05.11.2024. This Court also directed the trial Court to complete the trial and dispose of the complaint within a period of three months. Even then, the petitioner keep on filing this type of petition to drag the proceedings. Hence, the trial Court rightly dismissed the petition and it doesn't warrant interference

from this Court.

7. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

8. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the NI Act, alleging that the petitioner issued the cheque for a sum of Rs.2,40,00,000/- in order to repay the entire loan amount. It was presented for collection and the same was dishonoured for the reason “funds insufficient”. After causing statutory notice, the respondent filed the present complaint. On receipt of the statutory notice, the petitioner issued reply notice dated 09.06.2023.

9. On perusal of the reply notice, it is revealed that the petitioner never asked the respondent to come to Registrar Office on promise to pay the sum of Rs.2,43,75,600/- on 16.05.2023. She did not issue any cheque for a sum of Rs.2,40,00,000/-. At the time of borrowal of loan to the tune of Rs.35,00,000/- for the interest at the rate of 24% per annum, under the two mortgage deeds, the petitioner handed over the blank signed cheque at the time of execution of mortgage deed. In fact, the petitioner never borrowed any loan

from the respondent and while borrowing loan by her husband, the property was mortgaged in favour of the respondent, since the property stands in the name of the petitioner herein. Therefore, the petitioner had never seen the respondent and never spoken to him. She completely denied the issuance of cheque for any legally enforceable debt. She specifically denied the other handwriting found in the cheque except her signature.

10. Therefore, after examination of the respondent in chief, the petitioner filed the petition to send the cheque which was marked as Ex.P.4 for comparison of the handwriting found in the cheque viz., date, amount in numerical and words with that of the respondent and to obtain the opinion of the handwriting experts. Therefore, the petitioner raised primary rebuttal by issuance of reply notice dated 09.06.2023, in which she categorically denied the issuance of cheque and other handwriting found in the cheque except her signature. According to the petitioner, blank signed cheque was obtained from the petitioner while borrowal of loan to the tune of Rs.35,00,000/-. The trial Court ought not to have dismissed the petition since, the petitioner already raised preliminary rebuttal by way of reply notice and disputing the issuance of cheque and also the handwriting found in the cheque. Therefore, the impugned order cannot be sustained and liable to be set aside.

11. In view of the above discussions, the order dated 27.12.2024, passed by the learned XXV Metropolitan Magistrate, Egmore, Chennai, in Crl.M.P.No.70749 of 2024 in S.T.C.No.10105 of 2023, is hereby set aside. The trial Court is directed to send the impugned cheque dated 16.05.2023 marked as Ex.P.4 for comparison of the handwriting with an admitted signature of the respondent and after receipt of the handwriting expert's opinion, complete the trial within a period of three months, thereafter.

12. Accordingly, the Criminal Revision Case stands allowed. Consequently, connected miscellaneous petition is closed.

12.08.2025

Internet:Yes
Index:Yes/No
Speaking/Non speaking order

rts

G.K.ILANTHIRAIYAN. J,

rts

To

1. The XXV Metropolitan Magistrate,
Egmore, Chennai.

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