



Crl.O.P.No.11897 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.11897 of 2025 and
Crl.M.P.No.7930 of 2025

C.Varalakshmi

... Petitioner

Vs.

M.Arvind Bagrecha

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to set aside the order dated 02nd day of April 2025 by the Learned III Metropolitan Magistrate, George Town at Chennai in Crl.M.P.No. 1967 of 2025 in C.C.No.1547 of 2018 and direct the Court below to issue summon the Branch Manager, Indian Bank, No 30/275, Purasawalkam High Road, Chennai 600 084 and direct the Manager to bring the Bank Statement of the accused from 01.01.2017 to 31.03.2018 to get the details when the petitioner/accused received the subject complaint case cheque No 949750 from her A/c. No. 429720603.

For Petitioner : Mr.M.Boopathy

Respondent : No appearance



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ORDER

WEB COPY This Criminal Original Petition has been filed by the petitioner to to set aside the order dated 02.04.2025 passed by the Learned III Metropolitan Magistrate, George Town at Chennai in Crl.M.P.No.1967 of 2025 in C.C.No.1547 of 2018.

2. The case of the petitioner is that the petitioner is facing trial in C.C.No.1547 of 2018 III Metropolitan Magistrate, George Town at Chennai. The petitioner had a filed a petition under 348 of B.N.S.S. to recall P.W.1/complainant and the same was allowed and that the complainant/P.W.1 was cross examined fully on 05.03.2025 and immediately, the Court posted the matter for arguments. At the time of cross examination, the complainant/P.W.1 admitted that he received the accused's bank statement from the accused and further admitted that he had not filed her bank statement before the Court. Hence, the accused's Bank Manager's evidence is very much essential to prove the financial capacity and innocence of the accused/petitioner. Hence, the petitioner filed a petition in Crl.M.P.No.1967 of 2025 to issue summon to the Branch Manager, Indian Bank, No 30/275, Purasawalkam High Road, Chennai 600 084 and direct the Manager to bring the Bank Statement of



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the accused from 01.01.2017 to 31.03.2018 to get the details as to when the petitioner/accused received the case cheque No.949750 from her A/c. No.429720603, whereas, the learned Magistrate dismissed the same by order dated 02.04.2025 on the ground that in order to protract the case, the petitioner has filed the petition. Challenging the same, the present petition is filed.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. A reading of the order shows that the case has been registered in the year 2018. Though statutory notice was taken, the same was returned as left. Subsequently Court summon was served and the petitioner entered appearance through counsel and the case was pending for more than six years. Thereafter P.W.1 was cross examined and he had not questioned regarding the financial capacity. Further the petitioner has not denied the issuance of cheque and also the signature found in the disputed cheque. In order to prove the financial capacity, the Bank Manager need not be examined. Everyone will not maintain their financial status through bank. The examination of Bank Manager will not have any assistance to the Court to arrive at a just conclusion. Further,



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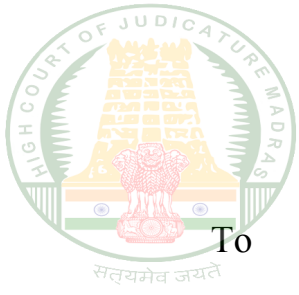
the petitioner had not taken the steps on earlier occasions and when the matter was posted for arguments, the petitioner has filed the said petition.

5. Though the petitioner stated that the respondent admitted that he obtained certain documents including the bank statement of the accused, however, the petitioner admitted the issuance of cheque. Therefore, it is for the petitioner to rebut the presumption in the manner known to law by preponderance of probabilities. Mere examination of the Bank Manager will not be helpful to this case. Therefore, this Court finds no reason to interfere with the order passed by the Magistrate.

6. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

17.06.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

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The III Metropolitan Magistrate,
George Town, Chennai.



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