



CRL.R.C.No.598 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2025

CORAM

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

Crl.R.C.No.598 of 2025

and Crl.M.P.No.9902 of 2025

R.Mohamed Rafeek

... Petitioner

Vs.

N.Prabhakaran

... Respondent

PRAYER: Criminal Revision case has been filed under Section 438 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and set aside the order dated 17.04.2025 passed in Crl.M.P.No.2494 of 2025 in C.C.No.947 of 2021 on the file of the Learned III Metropolitan Magistrate, George Town, Chennai.

For Petitioner : Mr.M.G.Abdul Jaleel

For Respondent : Mr.N.Baskaran

ORDER

This Criminal Revision case has been filed to set aside the order dated 17.04.2025 passed in Crl.M.P.No.2494 of 2025 in C.C.No.947 of 2021 on the file of the Learned III Metropolitan Magistrate, George Town, Chennai, thereby dismissing the application filed by the petitioner under Section 45 of the Indian Evidence Act, to send Ex.D1 for expert opinion by comparing the signature of



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the respondent with admitted signature.

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2. Heard both sides and perused the materials available on record.

3. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act, in C.C.No.947 of 2021. During trial, the petitioner was examined as DW.1 and marked Ex.D1. The respondent had cross examined the petitioner in detail. The specific case of the respondent is that the said Ex.D1 was not issued by the respondent and also denied the signature found in Ex.D1. It is a further case of the respondent that after a period of four years from the date of filing the complaint, Ex.D1 was produced before the Trial Court. In fact, the petitioner did not even whisper about Ex.D1 by way of reply notice, on the statutory notice issued by the respondent to initiate the proceedings under Section 138 of the Negotiable Instruments Act. In fact, after receipt of the statutory notice, the petitioner did not even send any reply.

4. If at all, the respondent had received the entire amount for the invoice

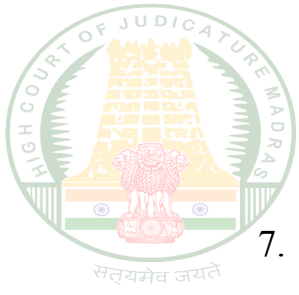


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which was marked as Ex.P1, definitely the petitioner would have issued reply notice for the statutory notice caused by the respondent. That apart, already the respondent filed a suit for recovery of money under the same invoice which was marked as Ex.P1 and three other invoices and all the suits were decreed in favour of the respondent.

5. It is also curious to note that the petitioner did not even whisper about Ex.D1 in any of the suits filed by the respondent for recovery of money. That apart, CC is of the year 2021 and when the complaint is posted for Judgment, the petitioner filed the application under Section 45 of the Indian Evidence Act seeking expert opinion on Ex.D1.

6. In view of the above, the Trial Court had rightly dismissed the application filed by the petitioner and this Court finds no infirmity or illegality in the Judgment passed in Crl.M.P.No.2494 of 2025 in C.C.No.947 of 2021 on the file of the Learned III Metropolitan Magistrate, George Town, Chennai. However, the Trial Court is directed to dispose of the complaint, in CC.No.947 of 2021, within a period of four weeks from the date of receipt of a copy of this order.



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7. Accordingly, this Criminal Revision case stands dismissed.

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Consequently, connected Miscellaneous petition is closed.

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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To

The III Metropolitan Magistrate,
George Town, Chennai.



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G.K.ILANTHIRAIYAN, J

mn

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