



Crl.R.C.No.1151 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 18.08.2025

CORAM:

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

Crl.R.C.No.1151 of 2025

M/s.Raj Television Network Ltd.,
Rep. by Manimaran,
No.32, Pose Garden,
2nd Street, Teynampet,
Chennai – 600 018.

... Petitioner

Vs.

Shakthi Chidambaram
Proprietor M/s. Cinema Paradise,
No.108, Duraisaran Street,
First Floor, Chennai – 600 093.

... 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 impugned order dated 27.03.2025 passed by the Metropolitan Magistrate, Fast Track Court II, Egmore, Allikulam, Chennai in C.M.P.No.2669 of 2025 in S.T.C.No.545 of 2024 as being contrary to law, consequentially order the Court to be allow and consider the secondary evidence of the documents lost in accordance with Section 65 of the Evidence Act.

For Petitioner : Mr.Prasanth Narayanan

For Respondent : Mr.L.Infant Dinesh



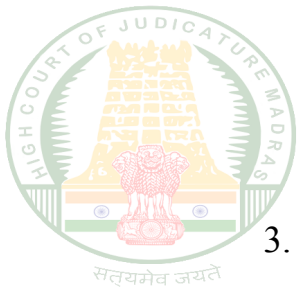
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ORDER

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This Criminal Revision has been preferred as against the order dated 27.03.2025, passed by the learned Metropolitan Magistrate, Fast Track Court II, Egmore, Allikulam, Chennai, in Crl.M.P.No.2669 of 2025 in S.T.C.No.545 of 2024, thereby dismissing the petition filed by the petitioner under Section 65 of the Indian Evidence Act.

2. The petitioner lodged complaint as against the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act (hereinafter referred to as “the NI Act”). After recording the sworn statement and on verification of all original documents, the trial Court had taken cognizance on the complaint lodged by the petitioner for the offence punishable under Section 138 of the NI Act. After taking cognizance, the original cheque and other documents were returned to the petitioner to produce at the time of trial. During the trial, the petitioner filed the petition under Section 65 of the Indian Evidence Act to adduce secondary evidence and the same was dismissed by the trial Court. Hence, the petitioner filed the present revision.

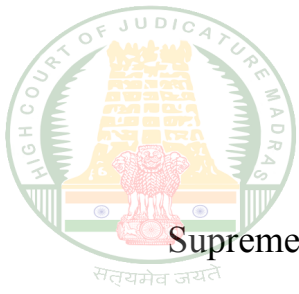


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3. The learned counsel appearing for the petitioner submitted that

originally the complaint was filed during the year 2011. However, only in the year of 2024, the trial was commenced due to various proceedings. Further the matter was referred to Lok Aadalat for amicable settlement and the same was not worked out. Thereafter, only in the year 2024, when the petitioner was examined as P.W.1 before the trial Court, the counsel verified with the bundle and found that the cheques and other original documents were missing. It is not the case of the petitioner that the cheque and other documents were stolen. During the course of hearing, the Advocate who lodged the complaint on behalf of the petitioner missed the cheque and other original documents. Therefore, the petitioner filed petition under Section 65 of the Indian Evidence Act, to adduce secondary evidence.

3.1. He further submitted that at the time of recording of sworn statement, the original cheque, return memo were verified by the trial Court and the same were returned back to the petitioner. Unfortunately, the counsel misplaced the cheque and other documents and as such he could not produce the same before the trial Court and sought for permission to adduce secondary evidence. In this regard, he relied upon the judgment reported in **(2005) 6 SCC 733** in the case of **N.Harihara Krishnan Vs. J.Thomas**, in which the Hon'ble



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Supreme Court of India held that the complainant should be permitted to lead secondary evidence to prove the existence and contents of the cheque. It would be incorrect and unjust to deny the complainant to opportunity to substantiate their grievance based on the loss of the original cheque. The complainant can provide reasonable explanation for the loss of the cheque, he shall be allowed to produce secondary evidence.

4. Per contra, the learned counsel appearing for the respondent submitted that all along 11 years from the date of taking sworn statement, the petitioner did not take any steps to lodge complaint for missing the cheque and other documents. In support of his judgment, he relied upon the judgment of the Hon'ble High Court of Chhattisgarh at Bilaspur reported in **2021 SCC Online Chh 1686** in the case of **Gurusharan Sahu Vs. Chumman Lal Sinha**, which held that there is no averment under Section 65 of the Indian Evidence Act that photocopy was compared with the original and it was accurate photocopy of the original and further have not filed with affidavit with regard to person who has obtained the said photocopy.

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



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6. In the case on hand, admittedly the original cheque and other documents were verified by the Court itself at the time of recording sworn statement of the petitioner and returned back to the petitioner. Therefore, the original documents were already submitted before the trial Court and all the documents were duly verified by the Court itself. Therefore the above judgment cited by the learned counsel appearing for the respondent is not applicable to the case on hand.

7. In view of the above discussions, the impugned order cannot be sustained and is liable to be set aside. Accordingly, the order dated 27.03.2025, passed by the learned Metropolitan Magistrate, Fast Track Court II, Egmore, Allikulam, Chennai, in Crl.M.P.No.2669 of 2025 in S.T.C.No.545 of 2024, is hereby set aside. The petitioner is permitted to adduce secondary evidence insofar as the cheque, return memo and debt advance before the trial Court. The trial Court is directed to dispose the same within a period of three months from the date of the receipt of a copy of this Order.



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WEB COPY 8. Accordingly, the Criminal Revision Case stands allowed.

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

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To

1. The Metropolitan Magistrate,
Fast Track Court II, Egmore,
Allikulam, Chennai



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G.K.ILANTHIRAIYAN. J,

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