



Crl.R.C.No.1118 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2025

CORAM:

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

Crl.R.C.No.1118 of 2025 and
Crl.MP.No.14051 of 2025

K.C.Parasuraman

..... Petitioner

Vs

Balan

..... Respondent

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of Cr.P.C., praying to call for records and set aside the order dated 16.06.2025 passed in CMP.No.312 of 2025 in STC.No.411 of 2023 on the file of the learned Judicial Magistrate No.II, Mettur, Salem, Salem.

For Petitioner : Mr.A.Ashok Kumar

For Respondent : No appearance

ORDER

This Criminal Revision Case has been filed against the order dated 16.06.2025 passed in CMP.No.312 of 2025 in STC.No.411 of 2023 on the file of the learned Judicial Magistrate No.II, Mettur, Salem, Salem, thereby dismissed the petition filed under Section 319 of Cr.P.C. to implead the wife of the respondent as accused in the complaint lodged for the offence punishable under Section 138 of NI Act.

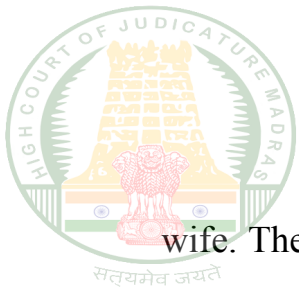


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WEB COP 2.

The petitioner lodged complaint against the respondent for the offence punishable under Section 138 of NI Act alleging that the respondent engaged the petitioner for fabricating works. After completion of work, the respondents owes to pay a sum of Rs.5,49,432/-. Towards part payment of the said due, the respondent issued cheque for a sum of Rs.3,50,000/- which was presented for collection. However, it was returned dishonoured for the reason 'payment stopped by drawer'. After issuance of notice, the petitioner lodged complaint. During the cross examination of PW1, the respondent had taken defence that the cheque was signed by his wife and she is the proprietrix of Akshaya Enterprises. Therefore, the petitioner filed petition to implead the respondent's wife as accused under Section 319 of Cr.P.C. It was dismissed on the ground that without due notice as required under Section 138(b) of NI Act, no cause of action arose to lodge complaint against the accused.

3. The learned counsel for the petitioner would submit that even after receipt of statutory notice, the respondent paid a sum of Rs.50,000/- as part settlement and the petitioner issued receipt dated 22.12.2018. After having been admitted during the cross examination that the respondent is the proprietor of Akshaya Enterprises, he all of sudden, stated that the cheque was signed by his



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wife. Therefore, the petitioner filed application under Section 319 of Cr.P.C. to

implead the respondent's wife as accused.

4. Heard, the learned counsel for the petitioner. Though notice was served on the respondent, today no one appeared on behalf of the respondent before this Court either in person or through pleader.

5. On perusal of the cheque dated 26.10.2018, it is revealed that it was issued by Akshaya Enterprises signed by proprietrix. It was presented for collection. However, it was returned dishonoured and as such, the petitioner caused notice to the respondent. It was also duly received and in fact, the respondent paid a sum of Rs.50,000/- towards part payment. Therefore, it shows that the said Balan is the proprietor of Akshaya Enterprises. Hence, the petitioner rightly issued notice and proceedings under Section 138 of NI Act was initiated against the respondent. During the cross examination, the respondent stated that Akshaya Enterprises is the proprietrix concern of his wife. However, on receipt of the statutory notice, the respondent did not even reply that the cheque was issued by one, Geeta and not by Balan. Therefore, it is clarified the petitioner need not implead the respondent's wife as accused since he can very well maintain the complaint as against the respondent.



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With the above observation, this criminal revision case is disposed of. Consequently, connected miscellaneous petition is closed.

26.08.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
lok



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WEB COPY

To

The learned Judicial Magistrate No.II, Mettur, Salem, Salem



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G.K.ILANTHIRAIYAN, J.
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