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Crl.OP.No.24098 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2025

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.24098 of 2025
and
Crl.M.P.No.16483 of 2025

Girija

... Petitioner

Vs.

Karthikeyan

... Respondent

Prayer: Petition filed under Section 528 of BNSS, to set aside the order dated 01.03.2025 passed in Crl.R.P.No.16 of 2024 on the file of the Principal District and Sessions Judge, Thiruvarur confirming the order passed in Crl.M.P.No.1849 of 2024 in STC.No.1060 on the file of the Judicial Magistrate, Thiruvarur.

For Petitioner : Mr.J.Jawahar

ORDER



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The order dated 01.03.2025 passed by the learned Principal District and Sessions Judge, Thiruvarur in Crl.R.P.No.16 of 2024, confirming the order made by the learned Judicial Magistrate, Thiruvarur in Crl.M.P.No.1849 of 2024 in STC.No.1060, is put under challenge in the present Criminal Original Petition.

2. Heard the learned counsel for the petitioner.

3. It is the grievance of the petitioner is that the application filed by her against the proceedings initiated under Section 138 of Negotiable Instrument Act, was dismissed by the Courts below.

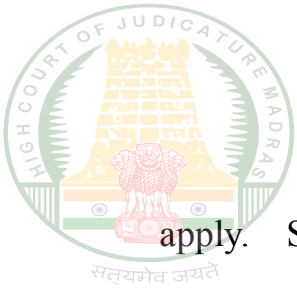
4. The learned counsel for the petitioner submitted that the petitioner has not received any amount as alleged and the cheque in question has been forged and misused. He further submitted that signature of the petitioner in the cheque and the postal acknowledgement differs and hence, the petitioner wanted to examine the Post Master as well as the Bank Manager as defence witness in order to prove her case. However, the Courts below had dismissed the application filed by her for summoning the Post Master and the Bank Manager. Hence, the present Petition.



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5. On a bare perusal of the case reveals that the accused/petitioner took out one application to examine the Post Master as a defence witness and also the Bank Manager to produce the specimen signature. A legal notice sent by the complainant has not been served on her to prove the above fact. The petitioner wanted to examine the Post master so as to prove the acknowledgement and the Bank Manager to establish the fact that the signature found in the cheque is not that of her by comparing the signature found in the opening form at the time of account opening. It is seen that the petitioner has filed this petition at the fag end of the trial to summon the defence witnesses namely, the Post Master and the Bank Manager to produce the specimen of her signature in the account opening form.

6. This Court is of the opinion that at this stage, the contention raised by the petitioner will not be of any help to her and the present petition has been filed at the fag end of the trial only in order to drag the proceedings. Even assuming if the signature found is not as that of the petitioner, her address has not been denied and she is residing in the same address and hence, the fact of denial of postal endorsement, cannot be accepted. Further, the presumption under Section 27, General Clauses Act will automatically



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apply. Similarly, when the affected person has to establish the plea of

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forgery, it is for her to prove the same. If so, she should have taken the application earlier and produce the admitted signature, whereas calling upon the specimen signature of the account opening form at this stage i.e., more than 5 years of the account opening, will not serve any purpose and if at all, the signature has to be verified by the parties on either side, it must be done within a period of three years. Therefore, no purpose will be achieved now by just summoning the witness as sought by the petitioner. Hence, I do not find any merits in the case. The Criminal Original Petition stands dismissed. Consequently, the connected Miscellaneous Petition is also closed.

02.09.2025

DP

Index: Yes/No

NCC : Yes/No

Order : Speaking/Non Speaking



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To

- 1.The Principal District and Sessions Judge,
Thiruvavarur.
- 2.The Judicial Magistrate, Thiruvavarur.
- 3.The Public Prosecutor,
Madras High Court.



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N.SATHISH KUMAR.J.

DP

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