



WEB COPY

CRL RC No. 1573 of 202



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-10-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL RC No. 1573 of 2025

AND

CRL MP NO. 16234 OF 2025

1. V. Sundhararajan
S/o. Varatharajan, No.1, Sunnambukara
Street, Tiruvannamalai.

Petitioner(s)

Vs

1. B. Arumugam
S/o. Balakrishnan, D.NO.474/K9,
Ponnusamy Nagar Main Road, Dr.
Nagarajan Ortho House Opposite Side,
Vengikkal, Tiruvannamalai.

Respondent(s)

CRL RC No. 1573 of 2025

PRAYER

To set aside the order dated 02.08.2025 made in CrI.M.P.No.2 of 2024 in CrI.A.No.28 of 2024 on the file of the District and Sessions Judge, Tiruvannamalai.

CRL RC No. 1573 of 2025

For Petitioner(s): P.S. Kothandaraman
P. Santhiya

Affidavit Of Service Filed

For Respondent(s): Court Notice Served For Sole
Respondent



B. ARUMUGAM S/o.
Balakrishnan, D.NO.474/K9,
Ponnusamy Nagar Main Road,
Dr. Nagarajan Ortho House
Opposite Side, Vengikkal,
Tiruvannamalai.
Private Notice Permitted - Proof
Filed - Served For Sole
Respondent

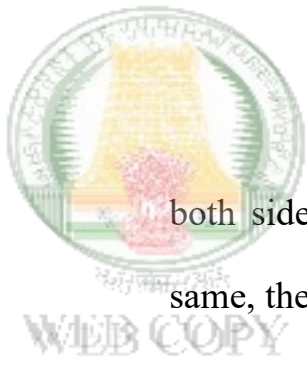
K.Alakendran
Asaithambi
B.Jayapradha
Anandakumar

ORDER

This Criminal Revision Case has been filed to set aside the order dated 02.08.2025 made in CrI.M.P.No.2 of 2024 in CrI.A.No.28 of 2024 on the file of the District and Sessions Judge, Tiruvannamalai.

2. The brief facts of the case:

The petitioner herein filed the petition under section 391 R/W Sec.311 of Cr.P.C., before the first appellate Court to call for the Branch Manager of Respondent/Complainant's Bank, Indian Bank, Thiruvannamalai Temple View Branch, to produce Bank Statement for the saving account No.855366133 of the complainant for the period from 1.1.2021 to 14.08.2022, to call for Arunachalam to be examined as witness and recording of additional evidence and to re-call the evidence of the PW1 / Complainant to produce his pension account bank statement for the period from 01.01.2021 to 14.08.2022 and recording of additional evidence, pending disposal of the appeal. On hearing



both sides, the first appellate Court allowed the petition. Aggrieved over the same, the petitioner preferred this Criminal Revision Case.

2. The learned counsel for the petitioner submits that the lower appellate Court failed to consider that Section 391 of Cr.P.C forms an exception to the general rule that an appeal must be decided on the evidence which was before the Trial court and the power being an exception shall always have to be exercised with caution and circumspection so as to meet the ends of justice. Be it noted further that the doctrine of finality of judicial proceedings does not stand annulled or affected in any way by reason of exercise of power under Section 391 Cr.P.C since the same avoids a de novo trial. It is not to fill up the lacuna but to sub-serve the ends of justice. Further, the said Arunachalam is not aware of the relevant facts of the case. However, without considering the above facts, the first appellate Court allow the petition filed by the respondent. Hence, he prays to allow this Criminal Revision Case.

3. The learned counsel for the respondent/complainant submits that said Arunachalam know about lending of loan to the petitioner and to prove the same the respondent filed the petition to examine the said Arunachalam as witness and to recall P.W.1. The Trial Court has rightly passed the order which needs no interference.

4. Heard the submission of the learned counsel for the petitioner and the



respondent.

5. The respondent herein filed the petition to recall P.W.1 to mark pension account statement and to examine Bank Manager, Indian Bank, Thiruvannamalai Temple View Branch as a witness with a direction to produce statement of account pertaining to the Savings Bank Account No. 855366133 of the respondent for the period from 01.01.2021 to 14.08.2022 and to call for Arunachalam to be examined as witness. This court is of the view that if sufficient opportunity is not given to the respondent to prove his case, his valuable right will be defeated. Furthermore, recalling P.W.1 and examining Bank Manager would not cause any prejudice to the petitioner. Therefore, this court does not find any reason to interfere with the findings of the Court below. It is open to the petitioner to put all his defence before the first appellate Court. Accordingly, this Criminal Revision Case is dismissed. Pending petition, if any, is/are closed.

07-10-2025

pb

To
The District and Sessions Judge, Tiruvannamalai.

T.V.THAMILSELVI J.
pbl



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