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Crl.R.C.No.1635 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 14.11.2025

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1635 of 2022

and

Crl.M.P.No.19540 of 2022

Nex Tech Engineering India Pvt. Ltd.,
Rep by its HR/Authorised Signatory Ms.Rosy,
No.24, Laxmi Nagar Sumathi Theatre,
Sriperumbudur – 602 105.

... Petitioner/Complainant

Versus

V. Sree Kumar

... Respondent/Accused

PRAYER : Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C., praying to call for the records culminated in the impugned order dated 12.09.2022 made in Crl.M.P.No.2892 of 2022 passed by the learned Judicial Magistrate, Sriperumbudur and consequently allow the applicant to lead the secondary evidence.

For Petitioner : Mr.R.Prabhakaran

For Respondent : Mr.K.Bommuraj



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ORDER

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The petitioner as complainant had filed a private complaint under Section 138 of the Negotiable Instruments Act against the respondent in S.T.C.No.2154 of 2014, which is pending trial in Judicial Magistrate Court, Sriperumbudur.

2.The contention of the petitioner is that the petitioner filed a proof affidavit for chief examination and in the proof affidavit he produced Exs.P1 to P8. When the petitioner was to mark the documents, at that time he found that original cheque/Ex.P4 was missing and hence, he filed a petition under Section 65 of the Indian Evidence Act before the trial Court in Crl.M.P.No.2892 of 2022, seeking to mark photostat copy of the cheque and the same to be taken as secondary document and to be considered as primary evidence. The trial Court, by an order dated 12.09.2022, dismissed the petition on the ground that objections were raised by the respondent, proper details not given by the petitioner about missing of cheque and bank return



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memo also not produced, hence it cannot be taken as primary evidence.

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Aggrieved against the said order, the present revision is filed.

3.The learned counsel for the respondent submitted that the respondent is an employee of the petitioner company. The case projected against the respondent is that the respondent for the purpose of purchasing property and for his personal expenses requested for a loan of Rs.37,00,000/- from the petitioner-company and the respondent is said to have promised to repay the loan. Based on which, a loan of Rs.37,00,000/- said to have been extended to the respondent and in lieu of the same, the respondent said to have issued a cheque bearing No.806017 dated 29.07.2014 drawn on Indian Overseas Bank, Irungattukottai for a sum of Rs.37,00,000/-. Thereafter, the complaint was filed for dishonour of the cheque. The petitioner not given proper reason for missing of the cheque, further the respondent denies issuance of cheque for such huge amount. According to the respondent, the cheque was filled up by the petitioner. Only if original cheque is produced, his defence can be



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probablisbed by showing the difference in writing and colour of ink, otherwise these valuable defence would be lost to him. Hence, strongly opposed this petition.

4.Considering the submissions made and on perusal of the material, it is seen that the respondent not denied the cheque. It is only with regard to the writing and difference in colour of ink. In this case apart from the cheque, the respondent executed promissory note, which was marked as Ex.P1. Further it is seen that in this case Legal Notice/Ex.P6 issued and the same was delivered to the respondent, which was marked as Ex.P7. The respondent also issued a reply notice/Ex.P8. The respondent already taken a defence and not denied the cheque/Ex.P4 in its entirety. With regard to other disputed facts, the respondent is entitled to raise the same during trial.

5.In view of the above, this Court directs the trial Court to mark the photostat copy of the cheque/Ex.P4 bearing No.806017 dated 29.07.2014 as primary evidence. All the defence is left open to the respondent.



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6.Finding that the case is pending from the year 2014 and it is almost 10 years, this Court directs the trial Court to post the case on a day-to-day basis, proceed with the trial and complete the trial within a period of two months from the date of receipt of a copy of this order.

7.With the above directions, the Criminal Revision Case is allowed.
Consequently, the connected Criminal Miscellaneous Petition is closed.

14.11.2025

Index : Yes / No

Internet : Yes/No

Neutral citation : Yes/No

Speaking / Non-speaking order

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Note: Issue order copy on 18.11.2025.



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M.NIRMAL KUMAR, J.

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To

1.The Judicial Magistrate,
Sriperumbudur.

2.The Public Prosecutor,
High Court, Madras.

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and

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