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CRL RC Nos. 2379 & 2380 of
2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-12-2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CRL RC Nos. 2379 & 2380 of 2025

AND

CRL MP Nos. 21538 & 21539 OF 2025

1. Ellayaraja
S/o.Visvanath, No.10, West Street,
Parigam Village, Eduthavainatham
Post, Kallakurichi District.

Petitioner/Complainant in both CRL R.Cs
Vs

1. Akbar
S/o.Vahab Sahif, Thirukovilore Main
Road, Bhuvanam Thottam, Near Petrol
Bunk, Fathima Toppu, Pidagam,
Elavanasurkottai, Kallakurichi District.

Respondent/Accused in both CRL R.Cs

CRL RC No. 2379 of 2025

PRAYER

Criminal Revision is filed under Section 438 read with 442 of BNSS to set aside the dated 13.08.2025 passed in Crl.M.P.No.63 OF 2025 in C.C.No.182 OF 2023 on the file of Fast Track Judicial Magistrate at Kallakurichi, and to allow the above Criminal Revision.

CRL RC No. 2380 of 2025

PRAYER

Criminal Revision is filed under Section 438 read with 442 of BNSS to set aside the dated 13.08.2025 passed in Crl.M.P.No.64 OF 2025 in C.C.No.182 OF 2023 on the file of Fast Track Judicial Magistrate at Kallakurichi, and to allow the above Criminal Revision.



In Both CRL R.Cs:

For Petitioner(s): M/s.R.Raj Prasanna

For Respondent(s): M.Udhayakumar

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ORDER

These two criminal revisions have been filed by the complainant in a case under Section 138 of Negotiable Instruments Act filed against the respondent; aggrieved by the order passed by the learned Magistrate.

2. It is the case of the petitioner that, the respondent herein had issued a cheque for a sum of Rs.9,00,000/- towards discharge of the liability; that when the said cheque was presented for collection, it was returned for the reason 'Advice not received' and that inspite of statutory notice, the respondent did not pay the cheque amount.

3. During the course of trial, the petitioner filed CrI.M.P.No.64 of 2025 seeking a direction to the respondent to deposit 50% of the admitted amount of Rs.6,00,000/-. The respondent, in turn, filed an application in CrI.M.P.No.63 of 2025 seeking to send the cheque for comparison of the handwriting on the cheque with his admitted handwriting, in order to prove his defence. It is the case of the respondent that a blank signed cheque was issued to a third party for security purposes and that the same was misused by the petitioner.



4. The trial court dismissed the petition filed by the petitioner seeking a direction to the respondent to deposit a sum of Rs.6,00,000/-, and allowed the petition filed by the respondent seeking comparison of the handwriting on the cheque. Aggrieved by said two orders, the petitioner has preferred the above criminal revisions.

5. Crl.RC.No.2379 of 2025 has been filed challenging the order passed in Crl.M.P.No.63 of 2025, by which the learned Magistrate allowed the comparison of the handwriting on the cheque. Crl.R.C.No.2380 of 2025 has been filed challenging the order passed in Crl.M.P.No.64 of 2025, wherein the learned Magistrate rejected the petitioner's request for a direction to the respondent to deposit a sum of Rs.6,00,000/-.

6. The learned counsel for the petitioner would submit that this Court had recorded the submissions of the learned counsel for the respondent in Crl.R.C.No.124 of 2024, wherein the learned counsel for the respondent agreed to settle the issue by paying a sum of Rs.6,00,000/-. He further submitted that, since the signature in the cheque is admitted, there is no necessity to send the cheque for comparison of handwriting, and that the petition filed by the respondent is only to delay the proceedings.



7. The learned counsel appearing for the respondent, per contra, submitted that the submissions made by the counsel for the respondent cannot be treated as an admission of liability. The learned counsel further submitted that he had only stated that steps were being taken to settle the issue.

8. In Crl.R.C.No.124 of 2024, there is an observation made by this Court that the respondent is ready to pay a sum of Rs.6,00,000/- to settle the issue. However, it is seen that the trial is at the fag end, and the accused has already been questioned under Section 313 of Cr.P.C. Therefore, this Court is of the view that the order of the learned Magistrate dismissing the said application on the ground that it was filed belatedly cannot be faulted.

9. The respondent, though having admitted the signature on the cheque, would state that he had not filled up the cheque and he had issued a blank cheque to a third party, which has been misused; and that he has to establish the said fact before the trial Court. The learned Magistrate found that the burden lies on the respondent to rebut the statutory presumption and accordingly appointed an Advocate Commissioner to carry out the exercise of comparison. Therefore, this Court finds no infirmity in the impugned orders. However, in the interest of justice, this Court directs the learned Magistrate to



complete the process of comparison of the handwriting in the cheque and to
conclude the trial within a period of two months from the date of receipt of a
copy of this order.

10. With the above observations, both the criminal revisions are
dismissed. Connected miscellaneous petitions, if any, shall stand closed.

17-12-2025

dpa

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To
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1.The Judicial Magistrate,
Fast Track Court, Kallakurichi.

2.Akbar
S/o.Vahab Sahif, Thirukovilore Main
Road, Bhuvanam Thottam, Near Petrol
Bunk, Fathima Toppu, Pidagam,
Elavanasurkottai, Kallakurichi District.



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SUNDER MOHAN J.

dpa

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