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Crl.O.P.No.29261 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 28.10.2025**

CORAM:

**THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA**

**Crl.O.P.No.29261 of 2025**  
**and Crl.M.P.No.19885 of 2025**

R.Sundar

... Petitioner

Vs.

S.Xavier

... Respondent

**PRAYER:** Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita/Section 482 of Cr.P.C., to set aside the order made in Crl.M.P.No.03 of 2025 in S.T.C.No.25 of 2023 on the file of the 27<sup>th</sup> Metropolitan Magistrate, Saidapet, Chennai, dated 19.09.2025.

For Petitioner : Mr.L.P.Balajiram

### **ORDER**

The present Criminal Original Petition has been filed seeking to set aside the order passed by the learned 27<sup>th</sup> Metropolitan Magistrate, Saidapet, Chennai, dated 19.09.2025, in Crl.M.P.No.03 of 2025 in S.T.C.No.25 of 2023.



2. The brief facts of the case are as follows:-

2.1. The petitioner is an accused facing trial in S.T.C.No.25 of 2023, pending on the file of the Metropolitan Magistrate, FTC-III, Saidapet, for the offence under Section 138 of the Negotiable Instruments Act, 1881.

2.2. The petitioner/accused filed a petition in M.P.No.3 of 2025 in S.T.C.No.25 of 2023, under Section 94 of BNSS, seeking production of the statements relating to the respondent/complainant's account maintained at ICICI Bank, Karaikudi, for the period between 2016 and 2023. The petitioner, in his reply, stated that the amount of Rs.3 lakhs was sent to the complainant and when it was put to the complainant during cross examination, he did not answer properly and thereby, the documents were necessary for marking in the case.

2.3. The respondent/complainant filed a counter contending that the petitioner/accused had admitted to the signature in the cheque. However, even if it is true that a sum of Rs.3 lakhs was received, it was towards interest and that the production of the bank statements will not alter the nature of the case. The trial Court, finding that even if the petitioner/accused has to prove the payment of Rs.3 lakhs, it would be sufficient to furnish the bank challans for depositing Rs.3 lakhs and there will not be any need to



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call for the bank statements of the complainant, had dismissed the petition, vide order dated 19.09.2025. Challenging the same, the present petition has been filed.

3. Learned counsel appearing for the petitioner submitted that while sending a reply to the statutory notice, the petitioner had stated that he had remitted a sum of Rs.3 lakhs into the respondent/complainant's ICICI Bank account. However, during cross-examination, the complainant has not given a proper reply to the questions put to him. He further submitted that if only the bank statements of the complainant are produced before the Court, the petitioner will be able to prove his case. Therefore, he prayed to set aside the impugned order.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Admittedly, the petitioner has not denied the issuance of the cheque and the signature in the cheque. However, he has contended that he had borrowed only a sum of Rs.10 lakhs from the complainant. As per Section 118 of the N.I Act, until the contrary is proved, the presumption regarding consideration is that every negotiable instrument is made or



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drawn for a consideration. In the present case, the petitioner has stated that he had deposited a sum of Rs.3 lakhs into the account of the complainant and in such circumstances, he can prove the same by marking the relevant challans. The trial Court, finding that summoning of the bank statements of the complainant is not necessary in such circumstances, dismissed the application.

6. This Court is also of the opinion that the petitioner can prove the payment of Rs.3 lakhs into the account of the complainant by marking the challans rather than summoning the bank statements of the complainant which would only cause unnecessary delay to the conclusion of the trial. Therefore, the trial Court had rightly dismissed the application. This Court does not find any infirmity in the order passed by the trial Court. Hence, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

**28.10.2025**

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Neutral Citation: Yes/No

To  
The 27<sup>th</sup> Metropolitan Magistrate,  
Saidapet, Chennai.

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**A.D.JAGADISH CHANDIRA, J.**

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***28.10.2025***