



Crl.R.C.(MD)No.669 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2025

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.R.C.(MD)No.669 of 2025

and

Crl.M.P(MD)No.7393 of 2025

M.Balamurugan

... Petitioner

Vs.

G.Kumar

... Respondent

PRAYER : Criminal Revision Case filed under Section 438 r/w 442 of BNSS, to call for the records relating to the order dated 22.05.2025 passed by the Judicial Magistrate Court (Fast Track Court) Srivilliputtur in Crl.M.P.No.7275 of 2023 in C.C.No.323 of 2021 and to set aside the same.

For Petitioner : Mr.R.Udhayakumar

For Respondent : Mr.M.Thirunavukkarasu

ORDER

This Criminal Revision Case has been filed challenging the order dated 22.05.2025 passed by the learned Judicial Magistrate, Fast Track Court, Srivilliputtur, in Crl.M.P.No.7275 of 2023 in C.C.No.323 of 2021.



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2. Background of the Case :

(a) The revision petitioner is the accused in C.C. No. 323 of 2021, initiated on a private complaint filed by the respondent under Section 138 of the Negotiable Instruments Act, 1881.

(b) The petitioner filed a petition under Section 243(2) of the Code of Criminal Procedure seeking permission to summon the Inspector of Police, Sethur Village Police Station, as a defence witness, to mark certain documents relating to a police enquiry conducted in CSR No. 184 of 2019, dated 06.11.2019.

3. Nature of Relief Sought:

According to the petitioner, the documents sought to be introduced such as the CSR receipt, the complainant's statement before police, and the closure endorsement are vital to establish his innocence. The summoning of the police official was sought to prove these documents.

4. Stand of the Respondent:

The respondent/complainant filed a counter affidavit stating that the question regarding the said police enquiry was already put to the complainant in cross-examination on 17.07.2023, and the complainant denied the same. Therefore, it was argued that summoning the police



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official was unnecessary.

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5. Trial Court's Consideration:

(a) The learned Judicial Magistrate, while dismissing the application, recorded that the petitioner had been provided with sufficient opportunity to lead defence evidence on multiple dates but failed to avail the same.

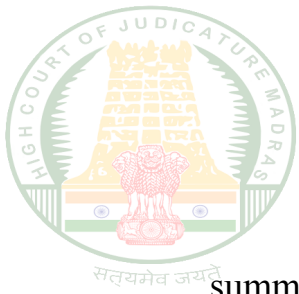
(b) The Court also noted that an application filed earlier by the petitioner to recall P.W.1 was allowed, and the petitioner was permitted to further cross-examine the complainant.

(c) Further, the Trial Court found that since the parties had agreed before the police to resolve the issue based on their accounts, it was open to the petitioner to produce those records directly, and summoning the police officer was unwarranted.

6. Submissions before this Court:

(a). Petitioner's Contention:

The learned counsel for the petitioner submitted that the right to present defence evidence is a statutory safeguard and cannot be curtailed merely on the ground of delay. It was argued that the CSR-related documents are crucial to the petitioner's defence and that refusal to



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summon the police official amounts to denial of fair opportunity.

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(b). Respondent's Contention:

The learned counsel for the respondent countered that the petitioner was granted six opportunities to examine defence witnesses and instead misused the process to delay the proceedings. The Trial Court had exercised discretion judiciously and committed no error warranting interference.

7. Legal Position:

(a) Under **Section 243(2) of the Cr.P.C.**, the accused is entitled to apply for the issuance of process to compel the attendance of any witness or the production of any document or thing, which is necessary for his defence. However, such a right is not absolute and is subject to judicial scrutiny.

(b) The Hon'ble Supreme Court in **Vijayan v. Sadanandan K. & Anr.**, (2009) 6 SCC 652¹, held as follows:

“The proceedings under Section 138 of the N.I. Act should not be unnecessarily protracted and every effort must be made to expedite the trial. Recalling of witnesses or summoning new witnesses at a belated stage without justification should not be permitted to defeat the object of the Act.”

¹(2009) 6 SCC 652



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(c) Similarly, in the case of **Krishna Janardhan Bhat v.**

Dattatraya G. Hegde², the Apex Court observed that:

“Although the burden on the accused under Section 139 of the N.I. Act is rebuttable, the standard of proof is preponderance of probabilities. However, vague or belated attempts to introduce defence cannot be entertained at the cost of delaying proceedings.”

8. Analysis and Findings:

(a) In the present case, it is evident from the records that the petitioner had multiple opportunities to examine his witnesses, yet failed to do so. The Court was lenient enough to allow the recall of P.W.1 and permit further cross-examination. The present application to summon the police official appears to be an afterthought.

(b) Further, the documents sought to be marked being a CSR receipt, a police statement, and a closure endorsement do not appear to be decisive for the adjudication of a cheque bounce case under Section 138 of the N.I. Act, especially in light of the fact that the petitioner did not issue any reply to the statutory notice under Section 138.

2(2008) 4 SCC 54



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(c) The Trial Court rightly concluded that the petitioner is at liberty to produce any relevant financial records or accounts before the Court. Summoning a police officer in a private complaint, when the parties have already agreed to work out their remedy in Court, would only serve to delay the proceedings.

9. Conclusion:

(a) In view of the above, this Court does not find any legal infirmity, perversity, or impropriety in the order passed by the learned Judicial Magistrate, warranting interference under revisional jurisdiction.

(b) Accordingly, this Criminal Revision Case is dismissed. Consequently, the connected Criminal Miscellaneous Petition is closed.

24.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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- 1.The Judicial Magistrate Court (Fast Track Court),
Srivilliputtur.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI,J.

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Order made in
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Dated: 24.07.2025