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Crl.O.P.No.2898 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.2898 of 2023
and Crl.M.P.Nos.1715 & 1770 of 2023

Kumar
S/o.Arumugam,
No.6/167, Jeeva Nagar,
1st Cross Street Pareri,
Near Government School,
Madurantakam – 603 204.

..Petitioner(s)

Vs

Axis Bank Rep. By its Senior Manager
Venkata Saravanan,
S/o. Govindasamy,
No.6, Agne Street,
Puducherry – 605 001.

..Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to quash the Summary Trial Case in S.T.C.No.2196 of 2022 filed on 25.07.2022 pending on the file of the learned Judicial Magistrate III, Puducherry.

For Petitioner(s):

Mr.N.Iyyakanna
For Ms.V.P.sheeba

For Respondent(s):

Mr.R.Sreedhar



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ORDER

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This petition has been filed to quash the proceedings in S.T.C.No.2196 of 2022 on the file of the learned Judicial Magistrate III, Puducherry, thereby taken cognizance for the offence punishable under Section 138 r/w. 142 of the Negotiable Instruments Act, 1881 (hereinafter referred to as “the NI Act”) as against the petitioner.

2. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the NI Act. The respondent lodged complaint alleged that the petitioner had approached the respondent and availed loan to the tune of 7,67,261/-. In order to repay the said loan amount, the petitioner issued cheque for the said sum. It was presented for collection. However, it was returned with remark “non CTS” by the cheque return memo dated 06.05.2022. After causing statutory notice, the respondent filed complaint and the same has been taken cognizance by the trial court in S.T.C.No.2196 of 2022. To quash the said proceeding, the petitioner filed the present petition.

3. The learned counsel appearing for the petitioner submits that there is no proof filed by the respondent to comply the provision under Section 138

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of the NI Act. Though the respondent annexed the notice issued under Section 138 of the NI Act, there is no proof filed the respondent to prove that the said notice was served on the petitioner. Therefore, there is no cause of action arose on the petitioner to lodge complaint.

4. The learned counsel appearing for the respondent submitted that the grounds raised by the petitioner are only technical defects and it can be cured at any time. Therefore, he prayed for dismissal of the quash petition.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. Admittedly, the respondent did not file any proof to show that the mandatory notice under Section 138(b) of the NI Act issued to the petitioner. Though the respondent annexed a copy of the notice along with the complaint, the respondent failed to file any document to show that the statutory notice was sent to the petitioner within the time stipulated under the NI Act. Further, there is no record to calculate the time of 30 days from the date of receipt of the notice to lodge complaint, since there is no proof to show the sending and also receipt of the notice, in order to calculate the period of 30 days as



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contemplated under Section 142 and 138(b) of the NI Act. Therefore, no notice

issued as contemplated under Section 138(b) of the NI Act and there is no cause of action arose to lodge complaint to initiate proceedings under Section 138 of the NI Act. On the sole ground, the complaint cannot be sustained and is liable to be quashed.

7. Accordingly, the impugned proceedings in S.T.C.No.2196 of 2022 on the file of the learned Judicial Magistrate II, Puducherry, is hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

09.03.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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To

1. The Judicial Magistrate III,
Puducherry



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G.K.ILANTHIRAIYAN. J,

rts

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