



CrI.O.P.No.10772 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.04.2026

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.10772 of 2026

and

CrI.M.P.No.7634 of 2026

C.H.s.Gopi

... Petitioner

Vs.

R.Aishwarya

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the adjudication dated 03.03.2026 passed by the learned XXVII Metropolitan Magistrate, Saidapet, Chennai in S.T.C.No.1048 of 2023.

For Petitioner : Mr.P.H.Aravind Pandian
Senior Counsel
for Mr.Vikram Veerasamy

For Respondent : Mr.Rahul Jagannathan
Ms.Srinithi Malavika



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ORDER

The petitioner/complainant filed a case under Section 138 of Negotiable Instruments Act against the respondent in S.T.C.No.1048 of 2023. Having some objection with regard to adjudication order dated 03.03.2026 and to set aside the same, the present petition is filed

2.The scanned reproduction of the adjudication order dated 03.03.2026 is as follows:



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**IN THE COURT OF XXVII METROPOLITAN MAGISTRATE,
(FAST TRACK COURT FOR TRIAL OF CASES UNDER SECTION 138
NEGOTIABLE INSTRUMENTS ACT), SAIDAPET, CHENNAI - 15.**

STC.No.1048/2023

Mr. C.H.S.Gopi,
S/o Late CH Subba Rao,
Door No.15/10,
Balaji Avenue 2nd Street,
Thirumalaipillai Road,
T.Nagar, Chennai - 600 017.



..... Complainant

//Vs//

Smt.R.Aishwarya,
D/o. V.R.Ravichandran,
No.40/54, DLF Commanders Court,
A-Block, No.96, 9th Floor,
Ethiraj Salai, Egmore,
Chennai 600 008



.....Accused

ADJUDICATION

03.03.2026

Complainant side memo filed and hence takenup today.
Complainant side filed a memo stating that on 11.02.2026, the complainant was not present. But it was mentioned as complainant present and it has to be rectified. Record perused. On 11.02.2026 complainant absent, petition filed in CMP.15/2026 and same was allowed. But wrongly mentioned as complainant present. Mistake rectified. Complainant absent on 11.02.2026 is recorded.

//sd//

XXVII MM

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3.The learned senior counsel for the petitioner submitted that there was a Tripartite Agreement between the petitioner, respondent and one Kasthuri, which was marked as Ex.P1. The petitioner paid around Rs.1 Crore to the said Kasthuri. The respondent entered into a sale deed with Kasthuri, for which, the respondent has to pay Rs.1 Crore to the said Kasthuri which was transferred to the petitioner's account and in discharge of the said liability, a cheque was issued. Hence, the Tripartite Agreement/Ex.P1 followed by the cheque are the vital facts which has to be decided. In this case, the petitioner/complainant was represented before the Trial Court through his counsel. On 11.02.2026 the complainant was not present but it has been recorded as though the complainant present and accused absent no representation. Further, it is also recorded as Documents not produced, hence adverse inference drawn under Section 114 of Indian Evidence Act and the case was adjourned to 17.02.2026. He further submitted that earlier the respondent filed a petition under Section 91 Cr.P.C./94 of BNSS in Crl.M.P.No.10 of 2025 and the Trial Court by order dated 12.12.2025 rejected the plea of respondent to produce the Bank statement of Vinay Heavy Equipment (Bank of Baroda Account No.300800300001921) for the period from 01.01.2015 to 12.09.2020 but directed the petitioner/complainant to produce the transaction particulars and



bank statement pertaining to Rs.1 Crore given to Kasthuri. He further submitted that earlier the respondent CrI.M.P.No.7 of 2024 seeking production of statement of account with regard to transaction with one Kothandaraman which was also rejected. Thus the respondent time and again filing one petition or other. The crux of the issue to be decided is whether the cheque was issued in discharge of the liability. Recording adverse inference to be drawn would affect the petitioner's case.

4.The learned counsel for the respondent strongly opposed the petitioner's contention and submitted that as regards recording of presence of complainant on 11.02.2026, he has got no objection to correct the same which has been rightly corrected in the adjudication order dated 03.03.2026. He would further submit that with regard to the contention of the learned senior counsel that adverse inference drawn under Section 114 of the Indian Evidence Act to be removed, otherwise great prejudice would be caused to him, is on a wrong notion. The petitioner/complainant was directed by the Trial Court to produce transaction details of the complainant with the said Kasthuri. The entire case originates on the Tripartite Agreement between Kasthuri, complainant and the accused which is marked as Ex.P1 and hence, the production of transaction details with Kasthuri is very much important



more so when the specific case of the petitioner/complainant is that the amount which the respondent owe to Kasthuri has been shifted to the petitioner/complainant. He further submitted that instead of producing bank statements and the relevant transaction details belatedly produced the statement of account of a Chartered Accountant which according to the respondent is a created document after considering the argument and defence by the respondent. Hence, withholding of transaction with Kasthuri would attract adverse inference under Section 114 of the Indian Evidence Act. He further submitted that this statement of account by Chartered Accountant cannot be considered in evidence, not proved in the manner known to law. The complainant not examined the Chartered Accountant, the author of the document, mere production of document cannot be taken in evidence. Hence, this document is not as per the orders of the Trial Court in Crl.M.P.No.10 of 2025.

5.Considering the submissions made and on perusal of materials, it is seen that the case is now at the advanced stage and the case is posted for judgment tomorrow (29.04.2026). In view of the same, the adjudication orders dated 11.02.2026 and 03.03.2026 cannot be given any judicial notice and the Trial Court to decide the case on its own merits on the available



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documents and evidence.

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6.In the result, the Criminal Original Petition stands disposed of. It is made clear that the observations and findings recorded in this order, is only for the limited purpose of disposal of this quash petition. The trial Court to decide the case, on its own merits, uninfluenced by this order. Consequently, connected miscellaneous petition is closed.

28.04.2026

Speaking order/Non-speaking order

Index: Yes/No

Neutral Citation: Yes/No

cse

Note: Issue order copy on 28.04.2026

To

The XXVII Metropolitan Magistrate,
Saidapet, Chennai.



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M.NIRMAL KUMAR, J.

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