



CRL.O.P.No.17648 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 09.06.2026

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.17648 of 2025 and
Crl.M.P.No.2863 of 2026

R.Ravinder Kumar,
S/o.late. Rishab Chand,
Old No.11, New No.30,
Rishab House,
Govind Street,
Near Panagal Park Market,
T.Nagar, Chennai-600017.

... Petitioner

vs.

T.P.Brindha,
W/o.Brighton,
No.50, Marvel River View Colony,
(Near EB Office), V Cross,
Manapakkam,
Chennai-600116.
Office at No.3/88, Mount Poonamallee Road,
Ramapuram, Chennai-600089.

... Respondent

PRAYER: Criminal Original Petitions filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order dated 30.01.2024 in C.M.P.No.17358 of 2023 in C.C.No.4796 of 2013 on the file of the Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai.



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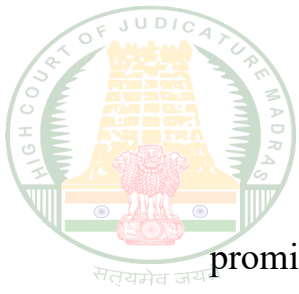
For Petitioner : Mr.M.Nandhakumar for
M/s.Eswar Kumar and Rao Law Firm

For Respondent : Mr.J.Prajoy

ORDER

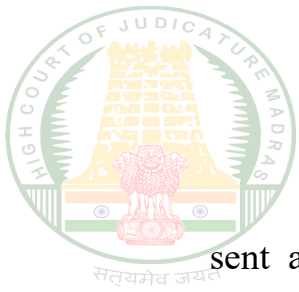
The petitioner/complainant filed a private complaint against the respondent/accused under Section 138 of Negotiable Instruments Act, 1881 in C.C.No.4796 of 2013 before the learned XVII Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai/trial Court. During trial, the respondent/accused filed a petition under Section 91 Cr.P.C. in C.M.P.No.17358 of 2023 in C.C.No.4796 of 2013 to direct the petitioner/complainant to produce original extension letter marked as Ex.P2. The trial Court by impugned order dated 30.01.2024 allowed the petition. Challenging the same, the present petition filed.

2.Learned counsel for the petitioner/complainant submitted that the respondent and her husband approached the petitioner for financial assistance on 20.07.2007. The petitioner arranged the loan through a third-party financier, and the respondent and her husband jointly executed



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promissory notes. The promissory notes endorsed in favour of the petitioner for collection. The respondent and her husband executed two extension letters dated 10.07.2010 and 14.06.2013 acknowledging their liability. Since they failed to make payment as undertaken, a summary suit in C.S.No.796 of 2014 filed before this Court. The original extension letters dated 10.07.2010 and 14.06.2013 marked as exhibits in the civil suit and the suit decreed on 17.08.2015. In discharge of the liability, the respondent issued a cheque for a sum of Rs.27,52,000/- on 18.06.2013 towards part settlement. The cheque, when presented for collection, the same dishonoured. Thereafter, following the statutory procedure, the complaint filed before the trial Court in the year 2013. Right from the initial stage, the petitioner encountered obstacles in one way or another, and the case was not proceeding in the normal course. Learned counsel further submitted that the case was not called on 06.05.2014 and, thereafter, it slipped out of the list and not listed for hearing. All steps taken to trace the bundle ended in vain. Thereafter, the petitioner submitted a representation dated 16.08.2016 to the Chief Metropolitan Magistrate, who, by Official Memorandum in Disc.No.6355 of 2016, called for remarks from the trial Court. On 11.05.2017, the trial Court



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sent a reply in Disc.No.175 of 2017 stating that all the case records available. Following the instructions of the Chief Metropolitan Magistrate in Disc.No.6355 of 2016 dated 25.05.2017, the case brought back to the list by the subsequent Presiding Officer. Owing to inordinate delay and under mysterious circumstances, the case bundle remained idle for several years before the trial Court. The respondent, in order to gain time, has been filing petitions and, on certain occasions, remaining absent, resulting in issuance of Non-Bailable Warrants and later recalling Non Bailable Warrant, thereby the proceedings got delayed and stalled.

3.He further submitted that the proof affidavit in this case filed and documents Exs.P1 to P10 marked. The cross-examination of PW1 conducted on 18.10.2023. The cross-examination was brief except for a few formal questions. During cross-examination, a suggestion put that Exs.P1 & P2 pertains to old transactions and subsequently filled up and filed. Thereafter, an adjournment petition under Section 309 Cr.P.C. filed and subsequently a petition under Section 91 Cr.P.C seeking production of the original extension letters dated 10.07.2010 and 14.06.2013 which are marked in the civil suit. He further submitted that the petitioner filed



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a detailed counter explaining the said documents filed in the civil suit, after judgment and decree, the documents formed part of the Court records. The petitioner also produced certified copies of the judgment and decree in C.S.No.796 of 2014, which are marked as Exs.P9 and P10. The respondent filed the petition under Section 91 Cr.P.C. stating that Ex.P2 extension letters forged and the ink dating in the extension letters would establish the defence of the respondent. The trial Court failed to consider that the extension letters were of the years 2010 and 2013 respectively, and considerable period elapsed thereafter. One letter is sixteen years old and the other letter is thirteen years old, the question of proving the age of the ink does not arise.

4.He further submitted that the trial Court failed to consider that, in the civil suit in C.S.No.796 of 2014, the respondent remained absent and was set ex-parte, and ex-parte judgment and decree delivered. Despite having knowledge of the judgment and decree, the respondent not challenged the same by filing any appeal. Thus, having suffered a judgment and decree in the civil proceedings, and execution proceedings now pending. The respondent to further delay and evade justice. Now



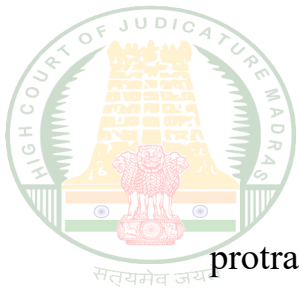
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seeks production of the original documents, knowing that the originals

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are already part of the records in the civil suit. In view of the above, the trial Court ought to have dismissed the petition. Further, the complaint under Section 138 of N.I. Act filed in the year 2013, the case bundle went missing and only after strenuous efforts, the case bundle restored to the file and brought up for trial. At this stage, after a brief cross-examination and without even making out a *prima facie* case, the respondent filed the petition under Section 91 Cr.P.C., which ought to have dismissed by the trial Court. He further submitted that the finding of the trial Court proceeds on the contention of the respondent/accused that Ex.P2 extension letters are forged and they had never issued any letters acknowledging their liability. The trial Court failed to take note of the judgment and decree marked as Exs.P9 and P10. Thus, the petition came to be allowed in a mechanical manner without proper appreciation of the materials on record. Hence, he prayed for setting aside the impugned order.

5.Learned counsel for the respondent/accused submitted that the present petition filed by the petitioner/complainant only with a view to



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protract the trial and to cause hardship to the respondent. He further submitted that the respondent facing the criminal proceedings from the year 2013 and the respondent has got nothing to do with missing of case bundle. The petitioner made wild allegations that the respondent was responsible for the missing of the case bundle and the consequent delay in the trial, is not sustainable. Learned counsel further submitted that the respondent is now ready and willing to proceed with the trial. According to the respondent, Ex.P2 is the undertaking/extension letters and the petitioner seeks to establish the liability of the respondent for the cheque amount. Since only a certified copy of Ex.P2 produced, the respondent is entitled to seek comparison of the same with the original document. The trial Court, after considering the respondent's submissions, rightly directed the petitioner to produce the original extension letter marked as Ex.P2. In view of the above, the present petition is liable to be dismissed and the impugned order to be confirmed.

6.Considering the submissions and on perusal of the materials, it is seen that the present case has had a chequered history. The complaint filed in the year 2013. Thereafter, the case bundle went missing in 2014.



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Only after strenuous efforts taken by the petitioner and pursuant to the order of the Chief Metropolitan Magistrate, the case bundle traced and the trial proceeded. Subsequently, owing to the COVID-19 pandemic, the proceedings further delayed by nearly two years. Even after regular Court functioning, the case continued to move at a snail's pace.

7.It is also to be seen that proof affidavit already filed and Exs.P1 to P10 marked. Ex.P1 is the promissory note, Ex.P2 is the extension letters, and Exs.P9 and P10 are the judgment and decree passed in C.S.No.796 of 2014. The petitioner filed the civil suit before this Court, which was decreed in his favour. Admittedly, the respondent not participated in civil suit and was set exparte. Having failed to participate the civil proceedings and having suffered a judgment and decree as early as 17.08.2015, the respondent now makes belated claim at this stage that the ink impression required to be confirmed is unreasonable. The trial Court failed to take into consideration these facts and how the fluorescence or strength of the ink would establish forgery and that too for the documents which of the year 2010 and 2013. Ex.P1 is the promissory note, Ex.P4 is the cheque, and signatures of the respondent



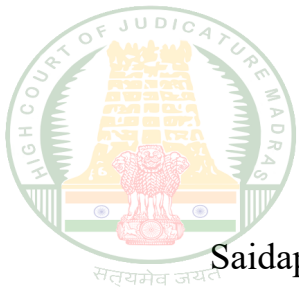
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already available before the trial Court. If the respondent genuinely seeks

to dispute the signatures, he can compare them with the admitted signatures already available and forms part of the case records before the trial Court. The trial Court can itself compare the signatures, if required. Despite knowing the original of Ex.P2 already filed as a Court document and forms part of the records of this Court in C.S.No.796 of 2014, the respondent filed a petition under Section 91 Cr.P.C., which was not properly appreciated and considered by the trial Court.

8.The trial Court failed to consider all these aspects. Without appreciating the stage at which the proceedings stood and the manner in which the case progressed over the years, the trial Court mechanically passed the impugned order. On the facts and circumstances of the case, the impugned order is not sustainable.

9.In view of the same, this Court set asides the impugned order dated 30.01.2024 in C.M.P.No.17358 of 2023 in C.C.No.4796 of 2013 passed by the learned Metropolitan Magistrate, Fast Track Court No.III,



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Saidapet, Chennai. Accordingly, this Criminal Original Petition is allowed.

10.The trial Court is directed to list the case on a day-to-day basis and complete the trial within a period of two months from the date of receipt of a copy of this order. Such direction is necessary considering that the case is of the year 2013. The complaint under Section 138 of the Negotiable Instruments Act having remained pending for 13 years, is not acceptable.

09.06.2026

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
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To

The Metropolitan Magistrate,
Fast Track Court No.III, Saidapet,
Chennai.

Note: Issue Order Copy on 18.06.2026.



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M.NIRMAL KUMAR, J.

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