



Crl.R.C. Nos. 2827 & 2828 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2026

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C. Nos. 2827 & 2828 of 2025

&

Crl.M.P. Nos. 24513 & 24517 of 2025

D.Anthony Muthu
S/o. M. Dasan,
Flat No. 52, 2nd Floor,
Plot No. 52, Poonga Salai,
Thendral Nagar,
Srinivasapuram Extension,
Anakaputhur, Chennai – 600 070.

..Petitioner in both the
revisions

Vs.

R. Vaithiyanathan,
S/o, Ramakrishnan,
Plot No. 113, 6th Cross Street,
Royal Garden,
Kattupakkam, Chennai – 600 056.

..Respondent in both
the revisions.

Prayer: Criminal Revision Petitions filed under Section 438 r/w 442 of
BNSS to call for the records and to set aside the impugned orders dated



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15.09.2025 made in C.M.P. Nos. 02 & 03 of 2025 respectively in C.A. Nos.

150 & 149 of 2024 respectively on the file of learned II Additional District and Sessions Judge, Poonamallee and permit the petitioner to give additional defence evidence to disprove the case of the respondent.

For Petitioner
in both revisions :: Mr.M. Francis Antony

For Respondent
in both revisions :: Mr.R. Darshan

COMMON ORDER

The respective criminal revision petitions challenge the orders dated 15.09.2025 passed in C.M.P. No. 02 of 2025 in C.A. No. 150 of 2024 and C.M.P. No. 03 of 2025 in C.A. No. 149 of 2024 on the file of learned II Additional District and Sessions Judge, Poonamallee.

2. The petitioner is an accused in a complaint instituted for the offence under Section 138 of Negotiable Instruments Act. He was convicted and sentenced to undergo simple imprisonment for one year and to pay compensation of Rs.40,00,000/- carrying a default sentence of one week simple imprisonment in respect of S.T.C. No. 55 of 2022 and to undergo



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simple imprisonment for one year and to pay compensation of Rs.5,00,000/- carrying a default sentence of one week simple imprisonment in respect of S.T.C. No. 133 of 2022 by the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Poonamallee. Challenging the said conviction and sentence, the petitioner preferred appeals in C.A. Nos. 150 & 149 of 2024.

3. During the pendency of the appeals, the petitioner filed applications under Section 391 Cr.P.C. in C.M.P. Nos. 02 of 2025 and 03 of 2025 in C.A. Nos. 150 & 149 of 2024 respectively seeking to adduce additional evidence by producing 9 documents.

4. The learned Sessions Judge dismissed the said applications stating that the petitioner had not appeared before the Court from 11.01.2023 to 27.06.2024 and the case was adjourned 44 times; that the petitioner had sought for the very same documents even in his applications filed under Section 91 Cr.P.C. when the case was pending trial before the learned Magistrate; that the said petitions were dismissed; that the petitioner had not challenged the same and that the applications under Section 391 Cr.P.C. have been filed only to delay the proceedings.

5. Learned counsel for the petitioner would submit that



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though the applications filed by the petitioner under Section 91 Cr.P.C. before the Trial Court came to be dismissed and the petitioner had not challenged the said orders, that by itself, cannot be a ground to reject his applications under Section 391 Cr.P.C. He would further submit that since the petitioner is seeking vital documents to prove his innocence and he has a duty to rebut the statutory presumption, the Appellate Court ought to have permitted him to adduce additional evidence. Learned counsel for the petitioner would also submit that though the petitioner sought for 9 documents, he would confine his prayer to 2 documents, namely, (i) the Loan Repayment Schedule issued by the respondent dated 30.01.2017 and (ii) the Statement of Accounts of the respondent/complainant pertaining to the loan on 10.05.2024.

6. On the other hand, learned counsel for the respondent would vehemently oppose the prayer for setting aside the impugned orders; and submit that the petitioner had filed the applications only to delay the proceedings; that in the petitions filed challenging the orders granting suspension of sentence to the petitioner, this Court had directed the



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Appellate Court to decide the appeals within a period of three months and thereafter, the applications under Section 391 Cr.P.C. have been filed. Therefore, considering the above facts, he would pray for dismissal of the revisions.

7. Heard the learned counsel on either side and perused the materials on record.

8. Though the petitioner had sought for 9 documents to be marked in the appeals, the petitioner has confined his prayer to 2 documents, as stated above. Even according to the petitioner, he had obtained a certified copy of the Loan Repayment Schedule of the respondent dated 30.01.2017. Hence, he cannot compel the respondent to produce the same. Similarly, in respect of the second document, i.e., the Statement of Accounts of the respondent/complainant pertaining to the loan on 10.05.2024, the petitioner had sufficient opportunity to summon the said document pending trial and in the appeals. However, he has failed to avail the same. Therefore, this Court is of the view that the respondent cannot be compelled to produce the aforesaid two documents and this Court finds no infirmity in the orders



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passed by the Appellate Court dismissing the applications filed under
Section 391 Cr.P.C.

9. However, considering the fact that the petitioner has obtained a certified copy of the Loan Repayment Schedule, he could be permitted to examine himself and mark the said document, subject to admissibility and any objection that may be raised by the respondent. It is needless to state that the respondent will have an opportunity to cross-examine the petitioner. The Appellate Court shall complete the said exercise and pass final judgment in the appeals within a period of four weeks from today.

10. The criminal revision petitions stand disposed of accordingly. Connection Crl.M.Ps are closed.

Neutral Citation: Yes/No

28.01.2026

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(**Note to Office:** Issue order copy
by 30.01.2026)

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The II Additional District and Sessions Judge,
Poonamallee.



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SUNDER MOHAN,J.

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