



WEB COPY



CRL OP No.34960 & 34967 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

**CRL OP No.34960 & 34967 of 2025
and Crl.MP. Nos.24532 & 24534 of 2025**

APR Ginning Mills,
by its Proprietor, Rajendran,
carrying on business at
No.153, Salem Main road, Aathur,
Narasingapuram Post,
Salem District.

..Petitioner in both Crl.O.Ps

Vs

Ashok Traders by its Proprietor,
Kannaiyan, S/o.Uthandi,
Carrying on business at
Main Road, No.18, Pudukudi,
Kodavasal Taluk,
Thiruvavarur District.

..Respondent in both Crl.OPs.

COMMON PRAYER: These Criminal Original Petition is filed under Section 528 of BNSS, to set aside the order dated, 29.09.2025, passed in Crl.MP. Nos.110 & 111 of 2025 in STC. No.27 of 205 by the District Munsif cum Judicial Magistrate Court, Kodavasal.

For Petitioner: Mr.SP.Chockalingam in both Crl.O.Ps

For Respondent: Mr.R.Narayanan in both Crl.O.Ps



COMMON ORDER

The petitioner/accused, who is facing trial in proceedings under Section 138 of the Negotiable Instruments Act in S.T.C. No.37 of 2023, filed Crl.M.P. No.110 of 2025 under Section 243(2) Cr.P.C & 266 (2) of BNSS Act, seeking to summon (i) the Branch Manager, Union Bank of India, Attur Branch, and (ii) the Branch Manager, Indian Bank, Ammapalayam Branch, for the purpose of producing certain documents, namely, the original partnership deed of M/s. APR Jinning Mills allegedly available with Union Bank of India, and deposit slips dated 09.05.2022 from Indian Bank, Ammapalayam Branch. The petitioner also filed Crl.M.P. No.111 of 2025 seeking to reopen the case for the purpose of examining the said Bank Managers.

2. The specific defence of the petitioner is that, during the cross-examination of P.W.1 on 01.07.2022, a suggestion was put that on 09.05.2022, between 11:00 and 12:00 noon, the petitioner was not present at Pudukudi, Kodavasal, but was present at Indian Bank, Ammapalayam, where he had gone to deposit money. It was further suggested that the travel time between Ammapalayam and Pudukudi would be about 3 to 4 hours, and therefore, the petitioner could not have been present at Pudukudi to issue the cheque on that



day. The petitioner contends that the cheque in question had been issued earlier and was subsequently filled up and misused by projecting it as having been issued on 09.05.2022 towards discharge of liability.

3. Another limb of the defence is that M/s.APR Jinning Mills is not a proprietary concern but a partnership firm, in which, apart from the petitioner, there are other partners, including his wife. It is contended that the complainant, without ascertaining the true constitution of the firm, has erroneously described it as a proprietary concern. In this regard, the petitioner seeks to summon the partnership deed allegedly submitted to Union Bank of India, Attur Branch.

4. The learned counsel for the petitioner further submitted that an opportunity must be afforded to the accused to effectively defend himself and to adduce evidence in support of his defence. Reliance was placed on the judgments of the Hon'ble Supreme Court in *Kalyani Baskar Vs. M.S.Sampoornam*, reported in 2007(50) AIC 381, the Apex Court held that a person cannot be convicted without an opportunity being given to present his evidence and if it is denied, there is no fair trial. In *T.Nagappa Vs.Y.R.Muralidhar*, reported in (2008) 5 SCC 633, the Apex Court held that the Trial Judge, the accused has a right to defend himself as a part of his human and also fundamental right as enshrined under Article 21 of the Constitution of India



and adduce evidence is recognised by the Parliament in terms of Sub-Section (2) of Section 243 of the Cr.P.C. He further relied upon the case of the Hon'ble Supreme Court, in *Natasha Singh Vs. CBI (State)*, reported in (2013) 5 SCC 741, for the point that the denial of valuable right to produce evidence would amount to denial of a fair trial.

5. Per contra, the learned counsel for the respondent/complainant strongly opposed the petitions. It was submitted that the chief examination of P.W.1 was conducted on 01.07.2022 and cross-examination on 09.07.2022, and thereafter, for nearly four years, the petitioner had not taken any steps to adduce defence evidence. It was further submitted that even during the examination under Section 313 Cr.P.C., no such defence was raised. Only at a belated stage, on 14.03.2025, the present petitions were filed, which clearly indicates an attempt to protract the proceedings, especially when the matter is posted for judgment on 30.03.2026.

6. With regard to the plea that the petitioner was present at Indian Bank, Ammapalayam on 09.05.2022, it was submitted that mere presence in the Bank does not establish that the petitioner could not have been present at Pudukudi, as deposit of money can be made by any person on behalf of the account holder. Further, in the absence of any specific provision or mandate given, it is for the



WEB COPY

account holder/accused ought to have produced the same, but keeping quite for four years and now filing this petition is nothing but to protract the proceedings, With regard to the alleged partnership, it was submitted that the cheque (Ex.P1), bearing No.052224 dated 19.05.2022, drawn on Union Bank of India, Attur Branch, was signed by the petitioner as “Proprietor” of SRI APR Ginning Mills. The cheque was returned for the reason “Funds Insufficient” and not for any discrepancy regarding the status of the Firm. Therefore, the attempt to now project the concern as a partnership Firm is an afterthought and would not aid the defence.

7. Considering the submissions on either side and upon perusal of the materials available on record, this Court finds that the petitioner had already taken a stand during the cross-examination of P.W.1 regarding his alleged presence at Ammapalayam on 09.05.2022. However, merely stating that he was at a distant place, without cogent evidence, does not constitute a valid defence, particularly when the deposit in the Bank could have been made by any person. Further, on a perusal of the cheque, it is evident that the petitioner has signed as “Proprietor” of SRI APR Ginning Mills. In such circumstances, the present attempt to establish that it is a partnership Firm by summoning documents from the Bank would not materially advance the case of the petitioner. Moreover,



WEB COPY



CRL OP No.34960 & 34967 of 2025

M.NIRMAL KUMAR, J.

now the matter is already posted for judgment. The Trial Court, having considered all these aspects, has rightly dismissed the petitions.

8. In view of the above, this Court finds no merit in the petitions. Accordingly, both the Criminal Original Petitions are dismissed. Consequently, the connected Miscellaneous Petitions are also dismissed.

26-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
RKP

To

The District Munsif cum Judicial Magistrate Court,
Kodavasal.

**CRL OP No.34960 & 34967 of 2025
and Crl.MP. Nos.24532 & 24534 of 2025**