

KASM600003552025



**IN THE COURT OF V ADDL. DISTRICT &
SESSIONS JUDGE, SHIVAMOGGA,
(SITTING AT SAGAR)**

Dated this the 7th day of July, 2026

Present : SRI.RAVINDRA R., B.A.L., LL.M.,
V Addl.District & Sessions Judge,
Shivamogga. (Sitting at Sagar).

Cr.R.P. No.10021/2025

Revision Mahalakshmi
Petitioner W/o Nagesh,
Aged about 43 years,
Junior Assistant Mescom,
Mangaluru.
(By *Sri.M.Rajashekhar Advocate*)

V/s.

Respondent Raymond Miranda,
S/o Jaki,
Aged about 55 years,
R/at Near Old pump house,
Jog, Sagar Taluk,
Shivamogga District.
(By *Sri.M.S.Gowdar Advocate*)

ORDER

The Revision Petitioner has preferred this petition U/Sec.397 (1) Code of Criminal Procedure to set aside the impugned order dated 26.03.2025 in C.C.No.165/2018 passed by the Addl. Senior Civil Judge & JMFC, Sagar, wherein the trial court has dismissed the application filed by the revision petitioner U/Sec.293 of Cr.P.C. r/w/Sec.45 of the Evidence Act.

2. In the course of this Order, the parties are referred as per their rank before the trial Court for the sake of convenience.

3. Facts of the present case necessary for disposal of this petition are that:

The Complainant filed a complaint before the trial Court U/Sec.200 of Cr.P.C against the revision petitioner /accused for the offence punishable U/Sec.138 of N.I.Act. After recording of the sworn statement, the complaint was registered as C.C.No.165/2018. After service of summons,

the revision petitioner/accused appeared before the court. Further, the revision petitioner filed an application to send the cheque in question for examination by expert regarding signature and the contents written on the cheque and also to evaluate the age of the ink. The complainant resisted the said application by filing objections. After hearing both the parties, the trial court vide its order dated 26.03.2025 dismissed the application filed by the accused/revision petitioner.

4. Being aggrieved by the said order passed by the trial court, the respondent /revision petitioner has approached this Court on the following **grounds**:

The trial court has erred in dismissing the application without considering the cross examination of PW.1 and evidence of the accused. In the cheque-Ex.P.1, the date and amount has been rewritten and the cheque has been manipulated. Further, the numbers written on the cheque are in one ink pen and the signature on the cheque in another ink pen. Hence, it is necessary to know the age of the ink used to fill the contents of the cheque. The trial court failed to consider the said facts and has committed

an error in dismissing the application of the accused/revision petitioner to send the cheque for scientific analysis. On above said grounds, the revision petitioner has sought this Court to set aside the impugned order of the trial Court and allow the application filed by the accused.

5. Heard arguments of both the parties. Perused the records.

6. Following points arise for consideration are as under:

1) Whether the impugned order dated 26.03.2025 passed by the trial court in C.C.No.165/2018 calls for interference by this court as sought by the petitioner in the petition?

2) What order?

7. My finding on the above points is as under:

Point No.1 : In the Negative.

Point No.2 : As per final order
for the following-

REASONS

8. **Point No.1:** The main contention of the revision petitioner is that, in the cheque-Ex.P.1, the date and amount has been rewritten and the cheque has been manipulated. Further, the numbers written on the cheque are in one ink pen and the signature on the cheque in another ink pen. Hence, it is necessary to know the age of the ink used to fill the contents of the cheque.

9. Perusal of the records reveal that, the accused has examined herself as DW.1. In her evidence, she has admitted that, Ex.P.1-cheque belongs to her and she has admitted her signature on Ex.P.1. Hence, the accused has admitted her signature on Ex.P.1-cheque.

10. At this juncture, it is relevant to refer here the Judgment of the **Hon'ble Madras High Court in S.Gopal V/s D.Balachandran reported in 2008 SCC online Mad 25**, wherein the Hon'ble Madras High Court has held that, the age of the ink cannot be determined by expert with scientific accuracy. Even then, if there is use of old ink on purpose, it would result in only further confusion and

create a dent in the opinion of the expert. No necessity, therefore, for sending disputed cheque admittedly signed by the drawer, to an expert opinion. Further, in the same judgment, the Hon'ble Madras High Court has held that, when the signature found in the cheque is admitted, the petitioner cannot challenge the particulars filled up by the holder in due course in the cheque.

11. In the instant case, the accused/ revision petitioner has admitted her signature on the cheque and there is no necessity to send the cheque for forensic examination. The defence of the accused regarding the misuse of the cheque and the absence of the liability are matters of evidence to be proved by the accused. In view of the aforesaid discussion, there is no infirmity in the impugned order passed by the trial court and does not call for interference by this court. Accordingly, point no.1 is answered in **Negative.**

12. **POINT No.2:-** In view of the above discussion, I proceed to pass the following-

ORDER

The Revision Petition filed by the petitioner under section 397 (1) of Cr.P.C. is hereby dismissed.

Consequently, the impugned order dated 26.03.2025 passed by the trial court in CC.No.165/2018 is hereby confirmed.

Send a copy of this order forthwith to the trial Court.

*(Typed to my dictation by Stenographer directly on Computer, corrected by me and then pronounced in the open Court on this the **7th Day of July 2026**)*

(Ravindra. R)

V Addl.District & Sessions Judge,
Shivamogga. (Sitting at Sagar).

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