

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-1, MAVELIKARA**Present :- Sri, Japhinraj. J.B, Judicial First Class Magistrate – I****Dated this the 29th day of November, 2024.****C M P 2181/2024 in ST 1057/2021**

Petitioner : K. Sasidharan, Krishna vilasam,
Mattom North, Mavelikara.
Respondent : The POA, Mr. James,
Sree Gokulam Chit Funds Pvt. Ltd,
Mavelikara.
(K. Asok Kumar)
Section of Law : U/s. 256 of CrPC.

The petition having been heard on 29.11.2024, the court on the same day, passed the following.

ORDER

This is a petition filed under Section 18 of CrPC to dismiss the complaint filed under Section 138 of the Negotiable Instruments Act.

2. **Petition averment in brief is as follows:** This petition has to be considered as a preliminary issue. The complainant is not appearing before the court and hence the complainant seeks to dismiss the complaint under Section 256 of CrPC. Only a power of attorney issued by the managing director was produced before the court. No power was delegated by the board of directors. The power of attorney has no validity as no resolution was passed. Ext. P1 cheque has no validity under Section 18 of the NI Act. The amount written on the cheque in words and figures is different. Hence, the case has to be dismissed with compensatory costs to the accused.

3. Heard both sides.

4. The petition is not properly worded. The petitioner, who appears as a party in person, is also unable to explain the intention behind the petition. The relief sought based on the non-appearance of the complainant is also dealt with in CMP 2711/24. Hence, no separate discussion is made here. From what

can be comprehended from the petition and hearing the accused, the amount written on the cheque in figures and words differs. Hence, the accused requires this court to dismiss the complaint with costs to the accused after considering this question as a preliminary issue. The case against the accused is presently posted for defence evidence. At this stage, there is no provision empowering this court to decide the case of the accused only on the preliminary issue on the ground that the expression of the cheque amount in words and figures differs. Section 18 of CrPC or NI Act does not confer any such power on this court. Those matters can be decided in trial. It is evident that the petition filed by the accused is without any merit and intends only to delay the trial.

5. In the result, the petition is dismissed.

Pronounced by me in hte open court on 29th day of November, 2024.

Judicial first class Magistrate-I
Mavelikara