

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE,
TRIPUNITHURA**

Present: Miss. Athira R S Panicker, Judicial First Class Magistrate

Dated this the 9th day of October, 2025

Crl. MP No. 1300/2024

In

CC No.89/2021

Petitioner/Accused : Sheeba Thambi, Aged: about 50 years,
D/o.Thambi K.B., Kuttazhathu, Nadama Village,
Tripunithura, Pin- 682 301.
(Hill Palace Police Station Limit)
: (By Adv.Sreekumar D Menon)

Respondent/
Complainant : M/s.Nadamel Service Co-operative Bank Ltd
No.213, N F Gate Tripunithura, Ernakulam,
682 301, through its Secretary in Charge
Sri.P.R.Kishore ,Aged:47/21, S/o.K.C.Rama Varma,
Kannadikovilakom, Nadama Village, Tripunithura,
Ernakulam – 682 301.
(By Adv. Suni M.D.)

Offence : u/s.138 of the NI Act

Order : Dismissed

ORDER

The petition is filed by the petitioner/accused under section 281 BNSS to stop further proceedings against her in this case.

2. **The gist of the averments in the petition is as follows:-** This complaint is filed by the complainant institution u/s.138 of the Negotiable Instruments Act against the accused. The said complaint is not maintainable either in law or by facts. A valid negotiable instrument is not produced by the complainant institution against the accused. The basic document which is produced by the complainant institution itself is dishonoured by stating the reason of “SBT cheque cannot be processed in CTS Clearing”. The said document does not attract any of the

basic ingredients under the Negotiable Instruments Act. Moreover, the said negotiable instrument is not issued by the accused to the complainant institution in the time and place as alleged in the complaint. Hence this court may be pleased to stop the proceedings against the accused and release the accused from this case. Hence, the petition.

3. **Respondent filed objection contenting the following:-** The above petition is neither maintainable in law nor on facts. The petition is filed by the accused intentionally to discharge the legally enforceable debt to cause unlawful loss to the complainant. The accused had subscribed the mutual benefit schemes and had borrowed money giving false promise of repayment within stipulated periods. The complainant when demanded for repayment, the accused had come down to this complainant bank with a duly signed cheque bearing No.524363 of State Bank of Travancore, Tripunithura. When the cheque was presented by the complainant for encashment through complainant's bank i.e., ICICI Bank, Tripunithura Branch, it was dishonoured for the reason of "SBT cheque cannot be processed in CTS Clearing". The above said cheque is a negotiable instrument comes within the definition of Negotiable Instruments Act, 1881. The accused upon false assurance issued the cheque to realize the debt due in order to cause unlawful loss to the complainant bank. Hence the act of the accused amounts to the offence u/s. 138 of the NI Act. The above petition is not sustainable as devoid of any merits. Hence the petition filed by the accused to stop the proceedings may kindly be dismissed.

4. Heard both sides and perused the records.

5. The point that arise for consideration is:-

Whether the proceedings against accused is to be stopped and accused is to be released as provided u/s. 281 of BNSS?

6. **Point:-** The petitioner herein alleges that the basic document which is produced by the complainant is the cheque, which is dishonoured by stating the reason of “SBT cheque cannot be processed in CTS Clearing”. The learned counsel for the petitioner argued that, the cheque belongs to the State Bank of Travancore, Tripunithura Branch and it was issued in the year 2020. Since State Bank of Travancore had merged with State Bank of India, the said cheque is not a valid one. According to him, it is not a negotiable instrument and it does not attract the basic ingredients under the Negotiable Instruments Act. Whereas, the learned counsel for the respondent argued that, the petitioner/ accused had executed the cheque and upon presentation of it before the ICICI Bank, Tripunithura Branch, it was dishonoured for the reason of “SBT cheque cannot be processed in CTS Clearing” and upon enquiry made by the complainant, it is known that there was insufficiency of funds in the account of the accused and thereby it was dishonoured. In addition to that the learned counsel for the respondent submitted that this petition is filed in a complaint instituted alleging commission of offence punishable u/s.138 of the NI Act and hence section 281 BNSS would not be applicable in this case.

7. It is pertinent to note that the allegation of the complainant is that the accused had issued a cheque and upon its presentation, it was dishonoured for the reason of “SBT cheque cannot be processed in CTS Clearing”. The said cheque is a negotiable instrument comes within the definition of the Negotiable Instruments Act 1881. The validity of the cheque can only be analyzed at the stage of trial. Prima-

facie the ingredients of the alleged offence is seen attracted and a trial is found to be necessary for analysis of the validity of the cheque. Moreover, this is a private complaint instituted alleging commission of the offence punishable u/s.138 of the NI Act. S.281 of the BNSS would not be applicable in case of private complaints. Section 281 BNSS deals with the stoppage of the proceedings in summons cases instituted otherwise than upon complaint. Since, this is a complaint instituted u/s.190 r/w 200 of the Cr.P.C., the proceedings cannot be stopped as stated by the petitioner. Hence this court find the proceedings in this case cannot be stopped and the accused cannot be released and the petition is not liable to be allowed. This point is thus found against the petitioner /accused.

8. In the result, the petition is dismissed.

(Dictated to the Confidential Assistant, taken down and transcribed by her, corrected and pronounced by me in the open court on this the 9th day of October, 2025).

Sd/-
Judicial First Class Magistrate
Tripunithura

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