

IN THE COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS-II, KOYILANDY.

Present: Sri. Vijayasankar P.
Judicial First Class Magistrate-II, Koyilandy.

Tuesday, the 9th day of June, 2026

CMP No. 2/2026 IN ST 12/2025

Petitioner/Com-plainant : Moosakutty, S/o. Abdurahiman, 71 years, "Darussalam", Parakkattil (H), Arikkulam, Naderi (PO), Koyilandy Taluk, Kozhikode - 673620. (Koyilandy Police Station Limit)
(By Adv. G. Praveen Kumar)

Respondent/Accused : Abdul Kasim, S/o. Mammed, 64 years, Maakkal (H), Puthur (PO), Modoor, Omassery, Koduvally, Thamarassery Taluk, Kozhikode - 673582. (Koduvally Police Station Limit)
(By Adv. K.M. Thomas)

Offence : Under Section 138 of the Negotiable Instruments Act, 1881.

ORDER

The petitioner herein is the complainant in this case. The petitioner has filed this petition to send the cheques which are marked as Exts P1 & P2 for examination of signatures through a handwriting expert.

2. Petition averments:- The accused has contended that the signature appearing in Exts P1 and P2 cheques are not that of the accused. Therefore it has become necessary for the complainant for take steps for the forensic examination of the cheques. Therefore, the petition.

3. Respondent filed counter stating that there arose no circumstance whatsoever to issue the cheque in favour of the complainant. The present petition is only to protract the matter. Therefore, the petition is dismissed.

4. Heard both sides. The Only point to be decided is whether the petition can be allowed or not ?

5. The petition is filed by the complainant in this case. It is case of the petitioner that the signatures in the cheques were disputed by the accused as that of not the accused. Therefore, it has become necessary for the complainant to get the signatures appearing in the cheques examined by handwriting expert. The accused filed counter stating that there arose no circumstances whatsoever to issue cheques in favour of the complainant. The question to be considered is whether the accused has disputed the signatures appearing in cheques at any point of time. I went through the materials available before the court. The cheques were returned for the reason "Account closed" and not for signature mismatch. The accused has not replied to the statutory notice issued to him. The accused has no case that he is not issued with statutory notice I went through the cross examination of Pw1 and I find that though the accused initially put a suggestion that the signatures therein are not that of him, he subsequently put a suggestion that the complainant procured the cheques somehow and presented the same for encashment. There is no specific suggestion that signatures therein were forged. The accused has no case that the cheque were not from the account maintained by him with the bank. Mere suggestion in cross examination is not sufficient to hold that accused has disputed the signatures. I therefore find that complainant is not burdened with proving of signature at this stage.

In the result, the petition stands dismissed.

(Dictated to Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open Court, on this the 10th day of June, 2026)

Sd/-

**Judicial Magistrate of First Class-II,
Koyilandy.**