

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST
CLASS-I, KOTTARAKKARA.**

Present :- Sri. Arjun Raj. E. R., Judicial 1st Class Magistrate.

Dated, this the 4th day of May, 2026

C. M. P. No.1/2026 in ST No.3071/2022

Petitioner/accused : Chinju. P. Nair, aged 39/2022, D/o Sheelakumari,
Vazhavila Veedu, Aikkarakonam, Kakkodu.P.O.,
Punalur.
(By Adv. S. Pushpanandan)

Respondent : Samuel. P. Y., aged 70/2022, S/o Yohannan,
Paloor House, Kottarakkara. P.O.,
Thrikkannamangal, Kottarakkara Village,
Kottarakkara Taluk.
(By Adv. B. Ajikumar, Adv. Deepa Devi. C.
and Adv. P. Muraleedharan)

Heard, perused the records and passed the following :

ORDER

1. This petition is filed by the petitioner/accused under section 47 of the Indian Evidence Act and Section 293 of Cr.P.C. in ST 3071/2022 before this court, for subjecting the Negotiable Instrument (cheque) for forensic investigation.
2. **Petitioner averments in brief is as follows:** The petitioner is the accused in this case, and she submits that the allegation of the complainant that the Cheque No.10356330 issued by her is false and the signature appearing on the alleged cheque leaf does not belong to her. She further admits that she did not receive or

sign any acknowledgment card received from the complainant. The petitioner contends that she did not sign the cheque. Hence she prays to submit the cheque along with the PAN card issued by the income tax department for expert opinion and scientific investigation.

3. **The respondent/complainant filed objection as follows:** The respondent submits that the petitioner has filed a petition seeking scientific investigation for the second time, despite the earlier petition having been dismissed by this Court. The respondent further contends that the prayer sought is irrelevant and immaterial, as the reason for dishonour of the cheque was insufficiency of funds and not variation in signature. Hence, the petition is liable to be dismissed.
4. Heard both sides and perused the records.
5. The present petition is filed by the petitioner/accused in this case to send the original cheque along with her original PAN card for scientific examination in order to verify the signature appearing in the cheque. From the side of the petitioner, earlier a petition was filed for sending for scientific examination along with the cheque and acknowledgment card, which was dismissed by this court. Now the petition is filed by the petitioner/accused for sending cheque along PAN card. The reason stated by the petitioner is that such a cheque was not executed by the petitioner/accused in discharge of a debt. However, The respondent strongly opposed the same and submitted that it is immaterial. It is

an established fact that the accused has every right to rebut the presumptions arising against her. However, the present stage of the case is complainant's evidence and the case has been adjourned on costs for cross-examining the complainant and thereafter the present petition has been put forth by the accused.

6. As per the decision of the Honourable High Court of Kerala in **Baby Thomas v. T. T. Paul and Another 2007 (3) KHC 732**, *"The law is trite that any and every request to forward the cheque to the expert need not be blindly and meekly accepted by the learned Magistrate. S.254(2) of the Code of Criminal Procedure makes the position crystal clear. Only if the Magistrate thinks it fit, need the cheque be forwarded to the expert who is to be examined as a defence witness"*. From the decision relied upon, it is evident that every application filed before the Court need not be accepted mechanically, rather, it is within the discretion of the Court to determine its necessity in the given circumstances. In the present case, the earlier petition seeking to send the cheque along with the acknowledgment card for scientific examination was dismissed by this Court. The present petition, which seeks comparison of the PAN card with the cheque, is filed at a stage where the case is only at the evidence of the complainant.
7. The chief affidavit along with documents has been filed, but the complainant has not yet been cross-examined, and no suggestion has been put to the

complainant regarding the signature on the cheque. As per the dictum referred, it is clear that the discretion to send documents for examination by the Forensic Science Laboratory rests with the Court. Since the complainant has not been cross-examined and no foundation has been laid regarding the disputed signature, it is neither relevant nor necessary to send the cheque for scientific examination at this stage. However, in order to safeguard the valuable right of the accused to challenge the signature, liberty is reserved to the accused to approach this Court at the appropriate stage, subject to strict compliance with the applicable provisions.

Accordingly, the present CMP stands dismissed.

Pronounced in open court on this the 4th day of May, 2026.

Sd/-

Judicial Magistrate of the 1st Class-I, Kottarakkara.
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Judicial Magistrate of the 1st Class-I, Kottarakkara.