

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE –CHITTUR

Present: Sri. Sivadas S

Judicial First Class Magistrate ,Chittur.

Dated this the 18th day of February, 2026

CMP.No. 4303/2025 IN ST 122/2020

Satheesh, aged 35/20 years, S/o Balakrishnan,
Sanjay Krishna Nivas, Govindapuram, : Complainant
Muthalamada, Chittur.
(By: Sri. R. Sivaraman, Advocate)

Vinod Kumar, aged 55 20 years, So Narayanan,
Album House, Vadakkethara, Pazhayannur, : Accused
Thrissur.
(By: Sri. N.S. Bivin, Advocate)

Offence : Punishable under Ss. 138 of Negotiable Instrument
Act

ORDER

This is a petition filed by the counsel for the accused to receive the witness list and to issue summons to the witness.

2. This is a case filed by the respondent/complainant against the petitioner/accused under Section 138 of Negotiable Instrument Act.

3. The allegation in this petition in brief are as follows: The respondent/complainant had sent a notice to the petitioner/accused through the counsel who is cited as the witness and for the notice the petitioner/accused has sent a reply through his counsel and it was received by a counsel named Adv. N. Raja who was the counsel for the respondent/complainant and the acknowledgment was produced before this court. That document was produced before this court and at the time of examination of

DW1 objection was raised by the respondent/complainant and so it was not received in evidence. So in order to mark and prove the acknowledgment card the counsel of the complainant has to be examined otherwise the defence evidence will not be completed. So he has prayed to issued summons to the witness.

4. On filing this petition notice was issued to the respondent/complainant. The respondent filed objection. In the objection it is stated that as per law the notice which was alleged to be sent by the complainant's side address is Raju, Advocate, Coimbatore but the witness who is sought to be examined is not that person. The complainant is not admitting the lawyer notice and acknowledgment card. So the witness as shown in the list can not be received. The petition itself is not legal. The acknowledgment card was seen received by one Raju, Advocate and the witness who is sought to be examined is Raja, Advocate. So they prayed to dismiss the petition.

5. Heard both sides.

6. The learned counsel for the petitioner/accused argued that the notice issued by Raja, Advocate, Coimbatore on behalf of the complainant to the accused was marked as Ext. D1 through DW1 and the reply sent to Raja advocate along with postal receipt was marked as Ext. D2 and D3. But in the acknowledgment card the name of the advocate is wrongly stated as Raju instead of Raja and that is why it was not been marked as there is change in name. Now in order to prove that the reply notice is received by said

Raja, Advocate, Coimbatore, he want to examine the counsel himself in order to prove the signature in Ext. D1 and D3 and the acknowledgment card. So he has prayed to allow the petition.

7. The learned counsel for the respondent/complainant argued that the acknowledgment card is issued in the name of one Raju and that is why it is not been marked by this court. As acknowledgment card is addressed to somebody else it cannot be marked and so he prayed to dismiss the petition.

8. In this case the reply notice sent by the counsel for the accused to N Raja was seen marked as Ext. D2 and the notice issued by N Raja to the accused was marked as Ext. D1 and the postal receipt for the issuance of the notice was marked as Ext. D3. But in the acknowledgment card the name of the counsel is stated as Raju and so that was not been marked. The reply notice along with the postal receipt will show that the reply was addressed to N Raja, Advocate, Coimbatore. But it is true that in the acknowledgment card the address is N Raju, Advocate, Coimbatore instead of Raja. So in order to prove that the acknowledgment card is received by the counsel who has sent the Ext. D1 notice to the petitioner/accused examination of that person is highly necessary. By examining the witness no prejudice will be caused to the respondent/complainant as he will get a chance to cross examine the witness. If he has

not entrusted N Raja Advocate to issue notice then he can very well brought out that fact in evidence. But on the principles of natural justice, I find that the defence has to be given an opportunity to prove that the reply notice sent by the defence is received by the said counsel. So I find that this petition has to be allowed and I do so.

In the result, the petition is allowed. Pay batta of Rs. 4,000/- directly to the witness.

Dated this the 18th day of February, 2026.

Sd/-

Judl. First Class Magistrate-I
Chittur

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Judl. First Class Magistrate-I
Chittur