

IN THE COURT OF THE ADDL. SESSIONS JUDGE -IV,
THIRUVANANTHAPURAM
PRESENT : SRL SUDHAKANTH. R, ADDL SESSIONS JUDGE – IV
Monday the 16th day of March, 2026/ 25th Phalguna, 1947
CRIMINAL M.P. No.4455/2025 IN Crl. Appeal.No.114/2022

Petitioner/ Appellant:-

Pushpa Ajayakumar, W/o Ajayakumar,
Gowree, KGRA-64, Vattiyoorkavu P.O,
Thiruvananthapuram-695013
(By Adv. Konchira G Neelakantan Nair)

Counter Petitioners:-

- 1 Sharon Joseph, S/o Joseph, TC 13/484(1),
THARA-117, Vanchiyoork P.O, Thiruvananthapuram
- 2 State of Kerala represented by Public Prosecutor,
Thiruvananthapuram

(By Adv. Sri. R. Praveen Kumar, Addl. Public Prosecutor for CP2)

This petition is coming on for hearing on **18.02.2026** and the Court on **16.03.2026** passed the following:-

O R D E R

This as an application filed by the petitioner/ appellant u/s 432 of BNSS 2023 to receive and admit two documents in evidence produced during the pendency of the above appeal

2. The averments in the above application can be summarised as follows:-

The petitioner is the appellant in the above appeal and he was the accused in CC- 2537/2014 on the file of Judicial First Class Magistrate Court- XII , Thiruvananthapuram. The 1st respondent in the appeal was the complainant and the complaint was filed alleging offence u/s 138 of Negotiable Instrument Act. The trial court after conducting the trial found the petitioner appellant guilty of having committed the alleged offence as per judgment dated 27/07/2022. In fact the case matter was settled between the parties on 23/03/2016 and compromise was recorded. The petitioner failed to produced the document evidencing the above fact during trial. The above document has been now traced out and produced before the court. The additional documents produced by the petitioner may be received to filed and admitted in evidence.

3. The 1st respondent filed objection stating the following contentions:-

The petition is not maintainable either in law or on facts. The money transaction entered into between the 1st respondent and the appellant was in the year 2013 and the complaint u/s 138 of the Negotiable Instrument Act was lodged in the year 2014 and the judgment of conviction and the order of sentence in CC- 2547/2014 was passed on 27/07/2022 . The petitioner has brought out a new defence in the case after a very belated stage. The petitioner/

appellant did not raise a contention that the case matter was compromised before the trial court . The oral evidence adduced by the appellant as DW1 before the trial court and the documents produced and marked from the side of defence would show that the appellant was having no case of compromise before the trial court . Therefore the application is to be dismissed.

4. Heard both sides.

5. The only point that arise for consideration is that whether the documents 2 in number produced by the petitioner/ appellant can be received to the filed an admit as additional evidence during the appeal.

6. **The point:-**

The petition has been filed by the petitioner for receiving two documents produced along with the above application. Document No. 1 is stated to be executed and issued by the 1st respondent in the appeal in favour of the appellant. The petitioner's case is that while CC- 2547/2014 was pending before the Judicial First Class Magistrate Court- 12 the parties arrived at a compromise , whereby the appellant/ accused paid a total sum of Rs.1,70,000/-. The petitioner has produced the document No. 1, so as to prove the above said fact. The document No. 2 is a blank signed cheque of the husband of the appellant / accused. The case of the petitioner / appellant is that the above cheque was given to the 1st respondent / original complainant at the time of borrowing the sum as a security and same

was returned to the petitioner/ appellant or receiving a sum of Rs. 1,70,000/- as per the compromise.

7. This specific contention of the respondent is that the petitioner had not taken a contention as to the existence of such a compromise said to have entered into in the year 2016, during the trial before the court in the original case. According to the respondent the document No. 1 has been concocted and styled as a compromise entered into between the parties with a view to drag the proceedings in the appeal. It can be seen in the judgment of the trial court dated 27/07/2022 in CC- 2547/2014 that the petitioner / appellant had produced two documents showing that the appellant / accused made payments towards the discharge of the debt to the respondent/ original complainant and same were marked as Ext. D1 and D2. Even though the above said documents were sent to Forensic Science Laboratory for the comparison of signature and handwriting of the complainant, it was opined by the Forensic Science Laboratory that it was not possible for the expert to fix the authorship of the signature's in the above documents with specimen signature and handwriting of the complainant. It can be seen from the records that the petitioner has adduced oral evidence as DW1. She was having a case that she paid a sum of Rs. 2,00,000/- to the respondent/ complainant so as to discharge debt for which Ext. D1 and D2 documents were issued by the first respondent/original complainant. The petitioner / appellant as DW1 was having no case

that the compromise was entered into between the parties and she had paid an amount of Rs.1,70,000/- towards balance amount due together with the interest . The case of the petitioner is that the said compromise was entered into in the year 2016. If the said fact was genuine, the petitioner/appellant suppose to have stated the same at the time of adducing the evidence before the court as DW1. The petitioner/ appellant is having no case that during cross examination of PW1 , such a defence was taken and anything was brought out so as to indicate the existence of such a compromise . The signed cheque produced is that of husband of the petitioner/ appellant and in the absence of any corroborating circumstance, same can be only treated as a self serving document for the petitioner/ appellant. Considering the above said facts it is to find that there is no sufficient reason to receive the documents produced by the petitioner/ Appellant and admit and mark in evidence as additional evidence. Therefore the application is to be dismissed.

In the result, the application is dismissed .

(Dictated to Confdl. Asst., transcribed and typed by him, corrected and pronounced by me in the open court on this the 16th day of March , 2026)

Sd/

SUDHAKANTH. R
ADDL. SESSIONS JUDGE-IV

// True Copy//

By Order
Sd/-

Copy of Order in
Crl. M.P.No.4455/2025 in Crl.A.114.2022
Dated: 16.03.2026