

**IN THE COURT OF THE JUDICIAL MAGISTRATE,
SULUR, COMBATORE DISTRICT.**

Present: Thiru.T.Arunkumar,M.A.,M.L.,M.B.A.,

Judicial Magistrate, Sulur

Tuesday the 07th day of April 2026

MP No: 1 and 2 of 2025

in

STC 782/2022

Mr. G. Shanmugam (53/2022),

S/o. Late. Ganapathyappan.

..Petitioner /Complainant

-Vs-

Mr. P. Balasubramanian, (44/2022),

S/o. Late. Palanisamy.

...Respondent/Accused

This petition has been filed on 01.11.2025 and came for final hearing on 26.03.2026 in the presence of Thiru.P.K.Prabhuram, B.A., B.L., learned counsel for Petitioner and Thiru.K. Shanmuganathan, B.A., B.L., learned counsel for the Respondent and on perusal of the petition and connected records and on hearing both sides, this court passed the following:

This petition is filed by the petitioner/complainant seeking to reopen the complainant side evidence and recall P.W.1 for the purpose of marking additional documents, namely the bank statement for the period from 01.03.2020 to 31.03.2022.

1. Brief facts of the Petition

(1.1) The petitioner submits that he has filed a complaint under Section 138 of the Negotiable Instruments Act. Due to inadvertence, the bank statement was not filed earlier. During cross-examination of P.W.1, the respondent questioned the financial capacity of the complainant. Hence, recalling P.W.1 is necessary to mark the bank statement and to adduce

further evidence.

2. Brief averments of the Counter

(2.1) The respondent filed a counter stating that the petition is filed only to fill up lacuna in the case. No specific details of the document were earlier disclosed. The petition is frivolous and intended to delay the proceedings. And further respondent stated in his petition that the petitioner has come forward with false and frivolous allegations is nothing but to fill up the lacunae. And further the respondent states in his counter that the petitioner filed this petition after the lapse of 2.5 years without giving any explanation. The respondent prayed before this court that the petition filed by the petitioner is liable to be dismissed.

3. Point for Consideration

(3.1) Whether the petitioner has made out sufficient grounds to reopen the complainant side evidence and recall P.W.1?

4. Discussion and Findings

It is a settled principle of law that the Court has ample power to permit recall of witnesses and reopening of evidence if it is necessary for a just decision of the case. The **Supreme Court of India in Rajaram Prasad Yadav vs State of Bihar (2013) and also Basalingappa vs. Mudibasappa 2019 (5) SCC 418 has held that:**

The power to recall a witness should be exercised to ensure that justice is done and not to fill up lacuna, but if the evidence is essential, it can be permitted. Further, the Hon'ble **High Court of Madras has consistently held that:**

Procedural laws are handmaids of justice. Opportunity should be given to parties to place relevant materials, particularly in cases under Section 138 of NI Act.

5. In the present case:

- (a) The dispute relates to an offence under Section 138 of the Negotiable Instruments Act.
- (b) The financial capacity of the complainant is a relevant and material issue.
- (c) The bank statement sought to be marked is crucial evidence for adjudication of the case.
- (d) The omission appears to be due to oversight and not deliberate.

Though the respondent contends that the petition is to fill up lacuna, this Court is of the view that Denial of opportunity would cause serious prejudice to the complainant. No irreparable prejudice will be caused to the respondent, as he will have opportunity to cross-examine P.W.1 further. Hence, in the interest of justice, this Court is inclined to allow the petition.

6. ORDER**(6.1) Heard both sides.**

(6.2) The petition is allowed. The complainant side evidence is reopened. P.W.1 is permitted to be recalled. The petitioner is permitted to mark the bank statement for the period 01.03.2020 to 31.03.2022, subject to relevancy and proof. The respondent is at liberty to cross-examine P.W.1 on the additional evidence. The petitioner shall proceed without causing delay.

Dictated by me to the Steno typist and typed by her directly in the computer and after effecting necessary corrections pronounced by me in the open Court on this the 07th day of April 2026.

(Sd/-T.Arunkumar)

Judicial Magistrate,

Sulur.