

In the court of Judicial Magistrate No.II, Maduranthakam

Present: Selvi.B.Bavya B.A.,LL.B.,

Wednesday, this 13th day of May, 2026

Crl.M.P. No.1236/2025

in

CC No. 442/2024

Uma represented by her special power
of Attorney RajKumar

...Petitioners/ Complainant

Vs

G.Sivaraj

.... Respondent/ Accused

ORDER

The above petition is filed by the petitioner's side U/s.52(ii) 60(c) of BSA to permit petitioner for filing photocopy of the cheque to prove the case.

Brief Averments of the Petitions:

1. The complainant/respondent has filed the present complaint under the sections 138 of the Negotiable Instruments Act against the accused/respondent. The petitioner submits that the above complaint filed against respondent/accused for dishonour of cheque dated 03.04.2018. At the time of filing complaint, the original cheque dated 03.04.2018 filed along with complaint. After taken on file, the original cheque was given to complainant by this court. Thereafter the original

cheque was lost on 25.12.2019. The complainant gave an online complaint to S.I of Police Madurantakam. The Xerox copy of the complaint registration form is enclosed. The above said original cheque was not traceable. Hence, the petitioner/complainant is not in a position to produce the original. Hence I am filing this application to permit the complainant/petitioner to file a photocopy of the cheque to prove the case. No prejudice would be caused to the other side. Otherwise I will be put to irreparable loss and hardship.

2. The petitioner/complainant prayed to allow the court to permit the complainant to file a copy of the cheque to prove the case and to grant such other suitable orders. And submitted that no prejudice will be caused to the other side. Hence, the petitioner has filed the present petition to receive documents mentioned in this petition and to mark the same in his evidence.

3. Despite sufficient opportunities given to the respondent they have not filed a counter on their side.

Issue:

4. Whether the petition is allowed or not ?

Order/Decision:

5. Records perused. The complainant submitted that the original cheque was produced before the Court at the time of filing of the complaint and, after due verification, the same was returned to him. Upon perusal of the records, it is seen that the proof affidavit was filed along with all the listed original documents by the complainant at the time of filing of the complaint. All the original documents, except the cheque, were retained on the Court record. A photocopy of the cheque

was retained by the Court after verifying the same with the original and returning the original cheque to the complainant.

6. The complainant has further stated that the original cheque was subsequently lost on 25.12.2019 and, in support thereof, has produced the online complaint registration form. Despite sufficient opportunity, the respondent/accused has not filed any objection to the present petition.

7. From the materials available on record, this Court is satisfied that the original cheque had in fact been produced before the Court at the time of filing of the complaint and that its contents were duly verified. It is also evident that a photocopy of the cheque was retained on the Court record after such verification. The explanation furnished by the complainant regarding the non-production of the original cheque, namely its subsequent loss, is supported by the complaint lodged in that regard and appears to be bona fide.

8. In this context, this Court places reliance upon the decision of the Hon'ble High Court in *Mohammed Iqbal v. Manonmanian*, 2025 SCC OnLine Mad 6266, decided on 16.09.2025, wherein it was held as follows:

“The Court noted that the petitioner had produced the original cheque at the time of filing the complaint and that the trial court had acknowledged its verification. The xerox copy retained by the trial court was therefore admissible as secondary evidence. The trial court, having accepted the original cheque and made an endorsement, ought to have allowed the petition to admit the xerox copy, and its failure to do so resulted in a miscarriage of justice.”

9. In view of the aforesaid facts and the law laid down in the above decision, this Court is satisfied that sufficient grounds exist for permitting the complainant to

rely upon the photocopy of the cheque as secondary evidence. Accordingly, the petition is allowed.

In result, the petition is allowed.

Dictated by me to the Steno-Typist, corrected and pronounced by me in open court on this 13th day of May, 2026.

Judicial Magistrate No.II,
Madurantakam.

Documents Submitted by the Petitioner:

S.No	Name of the Document
1.	The copy of the online complaint registration form given by the petitioner.