

IN THE COURT OF II ADDITIONAL SESSIONS JUDGE,
CITY CIVIL COURT, CHENNAI-104

Present: Tmt.Dr.R.Sathya., M.L. Ph.D.,

I Additional Judge

(FAC) II Additional City Civil Court, Chennai

Friday the 10th day of July 2026

Crl.M.P.No.11246 of 2025 in C.A.No. 298/2025

and

Crl.M.P.No. 11247 of 2025 in C.A.No. 299/2025

and

Crl.M.P.No. 11245 of 2025 in C.A.No. 300/2025

and

Crl.M.P.No. 11244 of 2025 in C.A.No. 301/2025

Mr.V.Balasubramanian, S/o. Mr.P.VembuPetitioner/Appellant/Accused
(In all Crl.M.P's)

-Vs-

Mrs.M.Swathi, W/o. Mr.MageshRespondent/Respondent/Complainant
(In all Crl.M.P's)

These petitions having come up on 09.07.2026 for final hearing before me in the presence of Kritika Kamal.P and E.Kanmani Counsels for the Petitioner/Appellant and of M/s. T.V.Vineeth Kumar, G.Rajeswary, M.Ajay Kumar, M.Jagadeeshvaran and B.Meganathan, counsels for the Respondent/Respondent, and upon hearing the arguments from both sides and upon perusing the petition, counter and other connected records and having stood over for consideration till this day, this court pronounced the following:

COMMON ORDER

These petitions have been filed by the Petitioner/Appellant/Accused u/s 432 of BNSS, to mark the building plan and the government order dated 15.12.2022 in G.O.Ms.260 of Housing and Urban Department as court document.

2. The averments in the affidavit filed in support of the Petition in short is as follows:

2.1. The petitioner is the appellant/accused. The above appeals have been filed against the judgment dated 01.02.2025 passed by the Learned Metropolitan Magistrate, Fast Track -II (Magisterial Level), Egmore @ Allikulam for the offence punishable under section 138 of the Negotiable Instruments Act 1881 convicting the Appellant/Accused to undergo Simple Imprisonment for a period of 1 Year and directing him to pay a compensation of Rs.10,00,000/- as compensation to the respondent/complainant within 30 days from the date of judgment in default to undergo 2 month simple imprisonment in STC No.10266/2023, S.T.C.No. 10268/2023 and S.T.C.No. 10269/2023 and to undergo Simple Imprisonment for a period of 6 months and directing the petitioner/accused to pay a compensation of Rs.4,92,000/- to the Complainant within 30 days from the date of judgement in default to undergo 2 month Simple Imprisonment in STC No.10267/2023.

2.2. Aggrieved by the conviction and sentence passed by the learned trial Court, the appeals have been filed and raised substantial grounds of appeal. The

petitioner defence before the lower court is that the complainant only invested in construction project and due to covid the said construction got delayed, hence there is no liability on the date of the alleged cheque. The petitioner have marked a brochure of the said construction which is disputed by the complainant. Hence, to prove the same it is necessary to mark the plan of the said project. The Government has extended the timeline for all projects affected by Covid and hence, in view of the delay also, there is no liability between the complainant and the accused. Hence, to prove the same it is necessary to mark the government order dated 16.12.2022 in G.O Ms. 260 of Housing and Urban Department concerning the said project. If the said documents are not marked undue prejudice will be caused to this petitioner. The amount received from the Respondent herein was invested in the property as per oral agreement and since the partnership business went into losses on account of Covid lock down, there occasioned a delay for which interest amount was calculated and paid for the delay period of construction. This by no means converts the transaction into a debt. The Respondent/Complainant herself has not stated so neither in her complaint nor in any part of her evidence. Infact she denied having received any interest. The said documents are absolutely essential to prove the genuine defence taken during trial before the lower court. The non-marking of the above documents was only due to the belief that by marking the brochure and bank statement, the defence was proved. The non-marking of the same before the trial court was neither

wilful nor wanton but solely due to the bonafide reasons stated above. Hence these petitions.

3.The averments in the Counter filed by the respondent in short is as follows:-

The appellant borrowed a sum of Rs.30,00,000/- and issued 4 cheques. Out of the 4 cheques 3 cheques were towards principal and the 4th Cheque was towards the interest calculated for the principal. The trial court after full trial convicted the Appellant and against that the Appellant had preferred this Appeal. Now the Appeal is ready for hearing arguments and to delay the process the present application has been filed for marking 2 documents which is totally unrelated towards the debt due. The Appellant/Accused had come up with a defence that he received the money towards investment in a project which is bald defence and which do not have any base at all. The said attempt to defend the case is already summarily rejected by the trial court and now the Appellant had again come up with the documents which the trial court refused to entertain. The appellant at this age do not have any shame to reiterate the lie which was registered by the trial court since the appellant do not have any basis for his defence. Now the appellant is producing a building plan and a G.O. which do not corroborate with the transaction between the appellant and respondent and those documents sought to be produced is an unrelated document and do not have any evidentiary value in this case. The plan sought to be marked as well as the G.O. are totally irrelevant to this case. The Appellant is not trying to fill up the lacuna and the documents sought to be marked will not absolve

the Appellant from the liability and cannot be a ground to absolve the appellant from the presumption under Section 139 of the NI Act. There is no document or any evidence to show that this respondent invested money to the appellant and this respondent reiterate the purported construction company is no way connected with this transaction and the Appellant borrowed money in his personal capacity and never transferred any money to anybody It is therefore prayed to dismiss these petitions.

4. The point for consideration:-

1. Whether the petitions have to be allowed or not ?

5.POINT:-

Heard the petitioner/accused counsel and the respondent/complainant counsel. The appeal has been filed by the appellant/accused against the judgment dated 01.02.2025 passed by the Learned Metropolitan Magistrate, Fast Track -II (Magisterial Level), Egmore @ Allikulam for the offence punishable under section 138 of the Negotiable Instruments Act 1881 convicting the Appellant/Accused to undergo Simple Imprisonment for a period of 1 Year and directing him to pay a compensation of Rs.10,00,000/- as compensation to the respondent/complainant within 30 days from the date of judgment in default to undergo 2 month simple imprisonment in STC No.10266/2023, S.T.C.No. 10268/2023 and S.T.C.No.

10269/2023 and to undergo Simple Imprisonment for a period of 6 months and directing the petitioner / accused to pay a compensation of Rs.4,92,000/- to the Complainant within 30 days from the date of judgment in default to undergo 2 month Simple Imprisonment in STC No.10267/2023. The present petition has been filed to receive and mark the building plan and the government order dated 15.12.2022 in G.O.Ms.260 of Housing and Urban Department u/s 432 of BNSS. The said documents have been filed along with the present petition. It is the contention of the petitioner that in order to prove that the complainant had received the amount towards investment in construction project and due to covid the said construction got delayed and hence there is no liability on the date of the alleged cheque, the additional documents are absolutely essential to prove the genuine defence taken during trial before the lower court. The non-marking of the above documents was only due to the belief that by marking the brochure and bank statement, the defence was proved. The non-marking of the same before the trial court was neither wilful nor wanton. It is the contention of the respondent/complainant that marking the above documents is totally unrelated towards the debt due. The Appellant/Accused had come up with a defence that he received the money towards investment in a project which is bald defence and does not have any base at all.

6.In the nature and circumstances of the present case the appeals being preferred by the petitioner/accused as against the judgment of conviction by the trial court this court is of the considered view that in order to afford an opportunity to the

appellant/accused to exhaust his remedies and to ensure that justice is not defeated because important evidence was unavailable or omitted during the trial and in the interest of natural justice the petitions may be allowed.

Crl.M.P.No.11246 of 2025 in C.A.No. 298/2025

In the result, this petition is allowed.

Crl.M.P.No. 11247 of 2025 in C.A.No. 299/2025

In the result, this petition is allowed.

Crl.M.P.No. 11245 of 2025 in C.A.No. 300/2025

In the result, this petition is allowed.

Crl.M.P.No. 11244 of 2025 in C.A.No. 301/2025

In the result, this petition is allowed.

Dictated directly to the Stenographer computerized by her and after my corrections, pronounced by me in the open Court, this the 10th day of July 2026.

sd/- Dr.R.Sathya

I Additional Sessions Judge,
(FAC) II Additional Sessions Court, Chennai.

Petitioner side witness and exhibits:-Nil

Respondents' side witness and exhibits:-Nil

sd/- Dr.R.Sathya

I Additional Sessions Judge,
(FAC) II Additional Sessions Court, Chennai.

Common Draft/Fair order
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Dated: 10.07.2026
II Additional Sessions Court