

**IN THE COURT OF I ADDITIONAL (TADA) CITY CIVIL and
SESSIONS COURT AT CHENNAI**

**Present: Thiru. R. Shanmuga Sundaram, B.Com., L.L.B.,
I Additional Judge.**

This Thursday, the 2nd day of April 2026

Crl. M.P. No.3/2026

in

Crl.A.No. 497/2025

(CNR No.TNCH01-008206-2025)

K. G. Pandian,
S/o. M.G. Kothandapani,
Partner, M/s. P.S.Homes.

.... Petitioner/Appellant

Versus

Krishna Prasad Bhat,
S/o. K. Guruvuyur Bhat.

... Respondent/Respondent

This Criminal Miscellaneous Petition came up before me for final hearing on 01.04.2026 in the presence of M/s. S.F. Mohamed Yousuf and M. Fakkir Mohideen, counsel appearing for petitioner of M/s. S. Udhayakumaran, counsel appearing for respondent and upon hearing arguments from both side, upon perusing the entire records of the case, having stood over for consideration till this day, this Court passed the following :-

ORDER

1. This petition has been filed by the petitioner/appellant to pass an order staying all further proceedings in C.A.No.497 of 2025 on the file of this Hon'ble Court till the disposal of the suit in O.S.No.1321 of 2019 on the file of the XVI Additional Judge.

2. The averments in the affidavit along with the petition are as follows:-

2.1. The petitioner is the appellant in the criminal appeal. The respondent / complainant had filed the C.C.No.1491 of 2015 on the file of the learned Metropolitan Magistrate, Fast Track Court III, Saidapet, Chennai that the 1st and 2nd accused jointly developed by constructing flats in the name and style of the 1st accused. The 2nd accused who are partners of the 1st accused, that a sale cum construction agreement dated 09.12.2011 had been entered into between them. The respondent/complainant is a money lender. The 2nd accused is used to borrow monies for interest from the respondent/complainant for their flat promotion projects, that it is usual for the respondent/complainant to obtain a sale cum construction agreement executed in favour of himself and his wife by the appellant and the 2nd accused in respect of a flat covered under a project for which monies are lent by the respondent/complainant and his wife. The signed blank cheque was given by way of security for securing the monies lent by him. The sale cum construction agreement and that the subject blank cheque signed by the petitioner and the 2nd accused had been given to the respondent / complainant by way of security at the time entering into agreement Ex.P1, dated 09.12.2011 to secure the monies lent by the respondent/complainant. Further, pending C.C.No.1491 of 2015, the respondent/complainant and his wife Mrs. Sneha Prasad have filed C.S.No.15 of 2018, before the Hon'ble High Court, Madras and now stood transferred as O.S.No.1321 of 2019 on the file of the XVI

Additional Judge for recovery of a sum of Rs. 32,02,500/- representing the cheque amount of Rs. 21,00,000/- and interest at the rate of 18% from 11.08.2014 to 10.07.2017 and the trial in the above said suit is at the fact in and judgment will have direct bearing in the present criminal appeal. The above said suit in O.S.No.1321 of 2019 complainant's evidence was already over and that the appellant is due to tender his evidence. The petitioner/evidence is filing a petition to re-open his side of evidence. The above suit is near completion and that the judgment will have a bearing in the present criminal appeal when considering the narration of the facts. Hence the petition.

3. The averments found in the counter filed by the respondent are as follows:-

The respondent has filed the counter and he denied all the allegations made in the petition. The respondent is a priest and his wife the second plaintiff in the original suit herein is a home maker. Further there is no need to do this kind of finance business in their life as stated in the petition. The first and second pages back side entries of the agreement of sale neither contained his script nor his signature. The appellant had filed a petition before the Hon'ble XVI Additional City Civil Court to set aside the order passed in O.S.No.1321 of 2019 dated 10.03.2026 closing evidence of DW1 and the further order passed the Hon'ble XVI Court dated 18.03.2026 closing the appellant side evidence and posting the matter for arguments and reopen the case enabling the appellant to

depose in the above O.S.No.1321 of 2019. Hence the petition is liable to be dismissed.

04. Point for consideration,

Whether the petition is to be allowed or not?

To the Point:-

5. The petitioner is the appellant in the appeal and the accused No.3 before the trial court. The respondent herein is the complainant before the trial court. When the appeal was posted for arguments or disposal on 24.03.2026, the petitioner/appellant has come forward with this Criminal Miscellaneous Petition stating that the respondent/complainant and his wife Mrs. Sneha Prasad have filed C.S.No.15 of 2018, before the Hon'ble High Court, Madras and now stood transferred as O.S.No.1321 of 2019 on the file of the XVI Additional Judge for recovery of a sum of Rs. 32,02,500/- representing the cheque amount of Rs. 21,00,000/- and interest at the rate of 18% from 11.08.2014 to 10.07.2017 and the trial in the above said suit is at the fact in and judgment will have direct bearing in the present criminal appeal. Therefore, he prays that the present appeal is to be stayed till the disposal of the O.S.No.1321 of 2019.

6. The respondent herein has filed a counter denying allegations and averments made in the petition. The petitioner has narrated and averted various facts and circumstances in his petition. The contention raised in the petition are to be considered only at the conclusion of the main appeal and not at this stage.

7. Whether the petitioner is entitled to get the relief of stay till the disposal of the O.S.No.1321 of 2019 alone is to be decided in the present application.

8. The learned counsel appearing on the side of the appellant during his arguments pointed out certain portion of the evidence of PW1. According to him the above said evidence are contradictory to the complaint and the complainant has played fraud upon the court and the appellant / accused and filed the complaint before the trial court.

9. Further the learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme court *M.S. Sheriff Vs. The State of Madras and Others on 18 March 1954 (1954 AIR 397, 1954 SCR 1229)*.

In the above said case the Hon'ble Supreme Court has held that in a simultaneous prosecution between civil and criminal proceedings, the criminal proceedings matter should be precedence and further the Hon'ble Supreme Court has ultimately come to the conclusion that the civil suit proceedings should be stayed till the criminal proceedings have finished. Therefore, the above said judgment is not applicable to the present case. The petitioner wants to stay the criminal petition till the disposal of the civil suit.

10. According the petitioner, the respondent/complainant is a money lender and the complainant used to lend money to the accused and the complainant used to obtain a blank signed cheque from the appellant and the 2nd

accused. The sale cum construction agreement is marked as Ex.P1. The sale cum construction agreement was entered into for the name sake between the respondent/complainant and the appellant/ accused and further the impugned cheque was given by way of security at the time of entering into the agreement

11. It is well settled law that simultaneous proceedings in criminal case and civil suit are maintainable,

The Hon'ble Supreme Court in the case of ***D.PURUSHOTAMA REDDY Vs. K.SATEESH (2008) 8 SCC 505*** has held that the suit proceedings is for recovery of money and criminal proceedings for the same cause of action a complaint petition under terms of Section 138 of the Act would also be maintainable.”

The relevant passage is extracted as below:-

3. The respondent-plaintiff filed a suit against the appellants, which was marked as OS No. 1844 of 2004, for recovery of a sum of Rs 3,09,000/- with interest. In the plaint, it was averred that Shri K. Balasubramanyam (father of the respondent) and Defendant 1 (Appellant 1 herein) were good friends. Defendants 1 and 2 had been carrying on business. They approached the plaintiff through Shri K. Balasubramanyam for financial assistance and obtained a loan of Rs. 2,00,000 (Rs.1,00,000 on 15-3-2001 and Rs 1,00,000 on 25-3-2001). Two promissory notes were also executed therefor.

4. The appellant-defendants purported to be in discharge of the said debt issued two cheques bearing Nos. 3960 dated 15-3-2003 and 3959 dated 31-5-2003 drawn on Bank of India, which on presentation, were returned dishonoured. Indisputably, a complaint under Section 200 of the Code of Criminal Procedure, 1973 read with Sections 138 and 142 of the Negotiable Instruments Act, 1881 (for short “the Act”), marked as CC No. 19337 of 2003, was filed. A judgment of conviction and sentence against the appellant was passed therein by an order dated 15-12-2005 sentencing him to pay a sum of Rs. 2,10,000/- by way of fine and in default thereof to undergo simple imprisonment for a period of three months. It was also directed that out of the said amount of fine, a sum of Rs. 2,00,000/- would be paid to the complainant by way of compensation in terms of Section 357 of the Code of Criminal Procedure (for short “the Code”) and the remaining amount was to be payable to the State. In the said criminal proceedings, the appellants deposited a sum of Rs. 31,500/- on 7-2-2006, Rs. 68,500/- on 21-7-2006 and Rs. 1,10,000/- on 13-12-2006.

5. OS. No. 1844 of 2004 was decreed by the trial court by a judgment and order dated 23-1-2006, ordering:

“This suit is hereby decreed for a sum of Rs. 3,09,000/- (Rupees Three Lakhs Nine Thousand only) with court costs and current interest at 6% p.a. on the principal amount of Rs. 2,00,000/- from the date of suit till realisation. The defendants are jointly and severally liable to pay the decretal amount.”

8. *Contention of the respondent, however, is that as the said question was not and could not have been raised before the trial court, the impugned judgment is sustainable. It was furthermore urged that in view of the well-settled principle of law that pendency of a criminal matter would not be an impediment in proceeding with a civil suit, the impugned judgment should not be interfered with.*

9. *A suit for recovery of money due from a borrower indisputably is maintainable at the instance of the creditor. It is furthermore beyond any doubt or dispute that for the same cause of action a complaint petition under terms of Section 138 of the Act would also be maintainable.”*

*Further the Hon’ble Supreme Court in the case of **VISHNU DUTT SHARMA Vs. DAYA SAPRA (SMT)2 (2009)13 SCC 729** held as follows:*

23. *It brings us to the question as to whether previous judgment of a criminal proceeding would be relevant in a suit. Section 40 of the Evidence Act reads as under:*

“40. Previous judgments relevant to bar a second suit or trial.—The existence of any judgment, order or decree which by law prevents any court from taking cognizance of a suit or holding a trial, is a relevant fact when the question is whether such court ought to take cognizance of such suit or to hold such trial.”

This principle would, therefore, be applicable, inter alia, if the suit is

found to be barred by the principle of res judicata or by reason of the provisions of any other statute. It does not lay down that a judgment of the criminal court would be admissible in the civil court for its relevance is limited. (See Seth Ramdayal Jat V. Laxmi Prasad [(2009) 11 SCC 545 : (2009) 5 Scale 527] .) The judgment of a criminal court in a civil proceeding will only have limited application viz. inter alia, for the purpose as to who was the accused and what was the result of the criminal proceedings. Any finding in a criminal proceeding by no stretch of imagination would be binding in a civil proceeding.

24. In M.S. Sheriff Vs. State of Madras [AIR 1954 SC 397] a Constitution Bench of this Court was seized with a question as to whether a civil suit or a criminal case should be stayed in the event both are pending. It was opined that the criminal matter should be given precedence. In regard to the possibility of conflict in decisions, it was held that the law envisages such an eventuality when it expressly refrains from making the decision of one court binding on the other, or even relevant, except for certain limited purposes, such as sentence or damages. It was held that the only relevant consideration was the likelihood of embarrassment.

25. If a primacy is given to a criminal proceeding, indisputably, the civil suit must be determined on its own keeping in view the evidence which has been brought on record before it and not in terms of the evidence brought in the criminal proceeding.

12. The Hon'ble Supreme court has held that the civil suit proceedings and the criminal proceedings are independent and can be simultaneously maintained. Further the case on hand the respondent herein has filed complaint before the trial court in C.C.No.1491 of 2015. Further it has taken nearly 10 years to conclude the trial. Finally the trial in the above said case ended with conviction on 17.03.2025.

13. During the pendency of the above said criminal proceedings the respondent/complainant has filed the civil suit for recovery of money as against appellant.

14. This court is of view that only in order to delay the disposal of the appeal, the petitioner has come forward with this petition and none of the contention raised in the petition do not fall within the ambit of special circumstances warranting to stay the further proceedings of the appeal till the disposal of the O.S.No.1321 of 2019. Therefore, this court finds that there is no merit in the petition and hence the petition is dismissed.

In the result, the petition is dismissed.

This Order has been dictated by me to the stenographer, transcribed and computerized by her, corrected and pronounced by me in the open Court on this Thursday, the 2nd day of April 2026.

I Additional Sessions Judge,
City Civil Court, Chennai.

I Additional Court, Chennai

Draft/Fair Order
in
Crl.M.P.No. 3/2026
in
C.A.No. 497/2025
Date: 02.04.2026