

**IN THE COURT OF II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THIRUVALLUR @ POONAMALLEE.**

Present : Tmt. G. Bhuvaneswari, B.L.,

II Additional District and Sessions Judge, Poonamallee.

On this Monday, the 20th day of July 2026

Crl.M.P. No.2/2025 in C.A.No.245/2024

A. Alagesan,

S/o. Arunachalam,

Door No.35, Annai Indira Nagar Annex - 1,

Thirunindravur,

Thiruvallur District – 602 024.

...Petitioner/Complainant

Vs

K. Murali,

S/o. Kumar,

Door No.3/2, H-Grace Apartments,

Balavinayakar Puram, M.M.D.A Colony,

Arumbakkam, Chennai – 600 106.

And also at 165 Q, Block, Tholkappiyam Street, MMDA Colony,

Arumbakkam, Chennai – 600 106.

...Respondent/Accused

This Petition was coming up before me for final hearing on 04.06.2026 in the presence of M/s. Aloysius Raja Pragash and B.K. Krishnamani Appukutty, learned counsel for Petitioner/Complainant and M/s. S. Devendran, D. Panchatsaram, B. Mohan Jawahar and P. Vengaimarban, learned counsel for the Respondent/Accused, on perusal of entire material records, upon hearing the arguments on both sides and having stood over for consideration till this date this court pass the following :

ORDER

The Petitioner/Complainant filed a petition under Section 148 (3) of Negotiable Instrument Act prays to permit the petitioner to withdraw 10% of the amount deposited by the Respondent / Appellant in the credit of the STC No.820 of 2022 on the file of Judicial Magistrate, Fast Track Court, Poonamallee by virtue of the order in CrI.M.P.7237 of 2024 in Criminal Appeal No.245 of 2024 dated 04.12.2024 on the file of Hon'ble Principal District and Sessions Judge at Thiruvallur

2) The crux of affidavit filed along with the petition by the Petitioner/Complainant are as follows:

The petitioner lent a total sum of Rs.25,00,000/- to the Respondent/Accused on various dates between June 2017 and August 2017 for

business development, repayable within six months. Towards partial discharge of the liability, the respondent issued two cheques dated 05.08.2020 for Rs.10,00,000/- each, totalling Rs.20,00,000/-. When presented for collection, the cheques were dishonoured on 07.08.2020 for "Funds Insufficient." Despite issuance of a statutory legal notice, the respondent failed to repay the legally enforceable debt. The petitioner initiated proceedings under Section 138 of the Negotiable Instruments Act in STC No.820 of 2022 before the Judicial Magistrate, Fast Track Court, Poonamallee. By judgment dated 07.11.2024, the trial court convicted the respondent, sentenced him to one year simple imprisonment, and directed him to pay Rs.30,00,000/- as compensation under Section 357(3) Cr.P.C., with a default sentence of one week's simple imprisonment. The respondent preferred Criminal Appeal No.245 of 2024, wherein the appellate court, by order dated 04.12.2024, directed him to deposit 10% of the compensation amount before the trial court as a condition for suspension of sentence pending disposal of the appeal. The petitioner submits that he is facing severe financial hardship due to the respondent's non-payment and is burdened with interest liabilities. As withdrawal of the deposited amount would not prejudice the respondent, the petitioner seeks permission to withdraw the 10%

compensation amount deposited to the credit of STC No.820 of 2022 pursuant to the order passed in Crl.M.P. No.7327 of 2024 in Crl.A. No.245 of 2024.

3) The Crux of Counter filed by the Respondent/Accused are as follows :

The respondent denies all the allegations in the petition except those specifically admitted and contends that the petition seeking permission to withdraw 10% of the compensation amount deposited in STC No. 820 of 2022 is devoid of merit and liable to be dismissed. The respondent submits that the disputed cheques (Ex.P1 and Ex.P2) were never issued by him towards discharge of any legally enforceable debt and that he had never borrowed Rs.25,00,000/- from the petitioner. He further contends that the cheques were filled up by the petitioner after a lapse of three years and were not voluntarily issued by him. It is further contended that the cheques were not dishonoured for "Funds Insufficient" as alleged by the petitioner, but were returned with the endorsement "Kindly Contact Drawer/Drawee Bank and Present Again," and that the petitioner has deliberately misrepresented the reason for return in the legal notice, complaint, and evidence. The respondent also submits that the alleged loan transactions are barred by limitation, that the statutory legal notice was never served upon him as the

postal cover was returned with the endorsement "No Such Person," and that the complaint itself was filed beyond the prescribed limitation period. He further relies on decisions of the Madras High Court wherein proceedings based on similar bank endorsements have been quashed. The respondent states that he deposited 10% of the compensation amount on 27.02.2025 solely in compliance with the appellate court's conditional order and not as an admission of liability. He asserts that the criminal appeal challenging the conviction and cheque liability has a fair chance of success and that permitting the petitioner to withdraw the deposited amount before disposal of the appeal would cause irreparable prejudice, as recovery of the amount would be difficult if the appeal succeeds. Accordingly, the respondent prays for dismissal of the petition seeking withdrawal of the deposited amount, with exemplary costs.

4) The point for consideration is whether this petition is allowed or not ?

5) **Point:**

Heard both sides. Perused the documents.

6) The Petitioner, the original complainant, initiated proceedings under Section 138 of the Negotiable Instruments Act, 1881, against the Respondent/

Accused. The Judicial Magistrate, Fast Track Court, Poonamallee, after conducting a full trial, delivered a Judgment dated 07.11.2024 in STC No.820/2022. The learned Judicial Magistrate convicted the accused under Section 138 of the Negotiable Instruments Act and the accused is sentenced to undergo one year of simple imprisonment and by considering the interest for the period of trial, financial loss to the Complainant this Court directs the Accused to pay a compensation of Rs.30,00,000/- (Cheque amount is Rs.20,00,000/-) to the complainant under section 357 (3) of Criminal Procedure Code, 1973 within one month and in default of payment compensation the accused shall undergo a further period of one weeks simple imprisonment as default sentence.

7) The Appellant/Accused then filed Criminal Appeal No.245/2024 before the Hon'ble Principal District Judge, Thiruvallur, along with Crl.M.P.No.7327/2024, seeking suspension of the sentence. On 04.12.2024, the Hon'ble Principal District Judge, Thiruvallur suspended the sentence and directed the Appellant/Accused to deposit 10% of the claim amount (Rs.3,00,000/-) within 60 days. In compliance, the Appellant/Accused deposited Rs.3,00,000/- on 27.02.2025 in the account of the Judicial Magistrate, Fast Track Court, Poonamallee. The Petitioner now seeks permission to withdraw this amount. The

section 148(3) of NI Act reads as follows :

The Appellate Court may direct the release of the amount deposited by the Appellant to the Complainant at any time during the pendency of the appeal:

Provided that if the Appellant is acquitted, the Court shall direct the Complainant to repay to the Appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the Complainant.

As per the above section, the present Petitioner/Complainant is entitled to withdraw the deposited amount, subject to an undertaking that if the Appellant is acquitted, the Petitioner/Complainant shall repay the released sum to the Appellant along with interest at the bank rate published by the Reserve Bank of India (prevalent at the beginning of the relevant financial year), within sixty days from the date of the order. The **Hon'ble High Court of Madras in the case of P.Venkatachalapathy vs Sri Yoga Traders on 27 June, 2019** published in <http://indiankanoon.org/doc/121189636/> observed that

The Petitioner (Complainant) challenged the Appellate court order dismissing his application under Section 148(3) of the Negotiable Instruments Act (NI Act) to withdraw 20% of the compensation

amount deposited by the Respondent (Accused) during the pendency of an appeal. And the Hon'ble High Court set aside the orders of the appellate court and ordered to withdraw the compensation amount with undertaking.

In the result, this petition is allowed. The Petitioner is permitted to withdraw the deposited amount of Rs.3,00,000/- (Rupees Three Lakhs only) before the Trial Court, subject to the following condition:

The Petitioner shall file an undertaking affidavit along with an Bond stating that: In the event the Appellant/Accused is acquitted, the Petitioner (Complainant) shall repay the withdrawn amount to the Appellant. The repayment shall include interest at the Bank rate published by the Reserve Bank of India (RBI), prevalent at the beginning of the relevant financial year. The repayment must be made within sixty (60) days from the date of the Appellate court's order.

Dictated to Steno-typist directly, typed by her in computer, corrected and pronounced by me in the Open Court on this the 20th day of July 2026.

**II Additional District and Sessions Judge,
Thiruvallur @ Poonamallee.**

Exhibits and Witnesses on both sides :- Nil.

**II Additional District and Sessions Judge,
Thiruvallur @ Poonamallee.**

ORDER

Crl.MP 2/2025 in C.A. No.245/2024

Date : 20.07.2026

II A.D.C. Poonamallee.