

**III ADDITIONAL DISTRICT AND SESSIONS COURT
TIRUVALLUR AT POONAMALLEE**

Present : **Thiru.C.VIJAYAKUMAR, B.A., B.L.**
III Additional District and Sessions Judge

Thursday, the 4th day of June 2026

**Crl.M.P. No.05/2025
in Crl.Appeal No.16/2023**

Sigamani, S/o. Arumugam.

..Petitioner / Appellant
/ Accused

Vs.

Lalitha, W/o. Mohan.

..Respondent / Respondent
/ Complainant

This Petition came up before me for final hearing on 07.04.2026 in the presence of M/s. A. Kumanaraja, D. Premkumar learned counsel for the Petitioner / Appellant / Accused, and M/s. V. Vanamali, C. Vishalkumar learned counsel for Respondent / Respondent / Complainant, and upon hearing both sides and having stood over for consideration till this day, this court passed the following:

ORDER

The Petitioner / Appellant / Accused filed under section 315 Cr.P.C and prayed to mark the documents through the appellant/accused.

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

The Petitioner stated that the evidence were filed before this Court on behalf of the appellant under section 391 Cr.P.C (now 437 of BNSS) and the same was allowed by

this Court on 18.02.2025. Therefore the petitioner herein filed this present application, and prayed to allow the petitioner to mark the documents through the appellant/accused on their behalf. Hence, the petition.

3) The crux of Counter filed by the Respondent / Appellant are as follows:

Per Contra, the respondent stated that, the petitioner filed the police documents to mark through the appellant. The Police reports has to be marked through the concern officials only and the appellant has not locus standi to mark the police documents through the appellant. The Police documents were attested by the Inspector of Police, Avadi who has to be prove the counter signature in the copies. Further, the appellant has not produced these documents in trial court and it shows the intention to prolong the case proceedings. Hence, the petition is liable to be dismissed.

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

5) Point:

Heard both sides. Perused the documents.

6) The Petitioner herein is the appellant/accused, who faced trial and ended with conviction for the offence under Section 138 of the Negotiable Instruments Act. The learned trial court convicted the appellant/accused and sentenced him to undergo six months of simple imprisonment and to pay Rs.3,90,000/- as compensation, and in default, to undergo simple imprisonment for three months. Aggrieved by the conviction and sentence, the accused preferred an appeal. During the pendency of the appeal, the petitioner/accused/appellant filed an application under Section 391 of

Cr.P.C in CRMP No. 324/2024, seeking permission of this court to produce additional evidence, i.e., the undertaking letters dated 26.03.2018, 16.05.2018, 14.07.2018, and 22.05.2018 given by the appellant/accused before the police officers on his side. This application was allowed by this court on 18.02.2024. Consequent to this application, the present application was filed by the appellant under Section 315 of Cr.P.C seeking permission to examine himself as a defence witness to mark these documents.

7) The respondent/complainant raised an objection that the accused is not the author of the said documents, and therefore, the documents cannot be marked through the accused. It is further contended that the documents are police documents, which ought to be marked through the concerned police official (the Inspector of Police, Avadi), and that the failure to produce these documents before the trial court indicates an intention to prolong the proceedings.

8) At the outset, it is relevant to note that this Court has already allowed the production of these very documents as additional evidence under Section 391 Cr.P.C. Once additional evidence is permitted to be brought on record in an appeal, the question that naturally arises is: through whom shall such evidence be marked? Unless the documents are admitted or self-authenticating, the party tendering them must lay a foundation for their admissibility by examining a competent witness.

9) Section 315(1) Cr.P.C unequivocally provides that an accused person shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him. The proviso merely requires that the accused shall not be

called as a witness except on his own written request, a condition that has been fulfilled by the filing of the present application.

10) In the present case, the accused seeks to mark undertaking letters allegedly given by him before police officers. As the author/executant of those letters, the accused is certainly competent to identify the documents, admit or deny his signatures/handwriting, and explain the circumstances under which they were executed. The objection that the documents are "police documents" and must be marked only through the police officer is not legally sustainable, especially at the appellate stage, when the accused himself is a party to those documents.

11) The petitioner herein, the accused, filed the present petition in writing through his counsel, thereby satisfying the proviso clause (a) of Section 315 Cr.P.C. The respondent shall have an opportunity to cross-examine the witness with regard to the admissibility of the documents under the Indian Evidence Act. Hence, in these circumstances, this petition is allowed. The petitioner/accused is permitted to examine himself as a defence witness under Section 315 CrPC for the purpose of marking the documents (undertaking letters dated 26.03.2018, 16.05.2018, 14.07.2018, and 22.05.2018). However, it is made clear that the accused shall be subject to cross-examination by the respondent/complainant on the contents of the said documents.

12) In the result this petition is allowed.

Dictated to Steno-typist directly, typed by him in computer, corrected and pronounced by me in the Open Court on this the 4th day of June 2026.

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

Exhibits and Witnesses on both sides :- Nil.

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