

**BEFORE THE SESSIONS DIVISION OF VELLORE
DISTRICT, TAMIL NADU.**

Present:-Thiru. M.Elavarasan,
Principal Sessions Judge, Vellore.

Thursday, the 02nd day of July , 2026.

Crl.R.P.No. 02 of 2026
CNR.No.TNVL01-001287- 2026

P. Harsha (32)
D/o. Prakash
No.101, Mannar Naidu Street,
Tharapadavedu, Katpadi,
Vellore 632007.

.... Revision Petitioner/ Complainant

-vs-

Kalaivani (72)
Wife of Sivaraju,
No.18/20, K.R.S.Nagar,
Katpadi,
Vellore District.

. . . Respondent / Accused

This petition was coming before me for final hearing on 16.06.2026 in the presence of Thiru.Mathews Devapandian, counsel for the petitioner and, of Thiru.P.J.Bency Switesingh Dhas, Counsel for the respondent and, upon hearing the arguments of both sides and, upon perusing entire case records and, having stood over for consideration till this day, this court deliver the following :-

ORDER

Criminal revision is filed u/s 438 of the BNSS, 2023 against the order passed in Crl.M.P.No. 2619 of 2025 in STC.No.56 of 2023 dated 03.07.2025 by the Judicial Magistrate (Fast Track), Vellore wherein to order the recall and examination of witnesses petition was dismissed by the trial court.

2. Brief facts from the petition in Crl.M.P.No. 2619 of 2025 is as that the Revision Petitioner/Complainant had filed the case against the Respondent/Accused under Section 138 of the Negotiable Instruments Act. The petitioner maintained Band Account in Dhanalaxmi Bank, Latteri Branch, through which she had presented the cheque issued by the accused on 23.09.2022. The said cheque returned unpaid. The same was intimated to the petitioner through her bank on 26.09.2022. Hence, it is just and necessary to examine the Bank Manager for the purpose of adducing evidence regarding the said transaction and the return of cheque. Hence, the petitioner prays to order recall and examination of the said witnesses.

3. Brief counter of the respondent is as that this Petition is not maintainable either in law or on facts. The witness mentioned in the petition has not been included in the list of witnesses in the complaint.

The witness is no way related to the proceedings. Petitioner already filed petition CrI.MP No.1453 of 2025 for amending the main complainat as if the petitioner had stated wrongly as Branch Manager, Indian Bank, Vellore Branch, but the said petition was dismissed on 18.09.2025 and the petitioner has not preferred any appeal against the said order. The facts relating to the present petition was discussed and denied by the Court . Now, suppressing the said facts, again the Petitioner/Complainant has come forward with the present petition, which is not at all maintainable. Therefore, the petition is liable to be dismissed.

4. The trial Court after considering the records available on hand dismissed the petition 12.02.2026. Aggrieved against the same the Appellant, i.e., the petitioner / Complainant filed this revision under following grounds:-

1. The Cr.P.C/ BNSS does not mandate witness-wise pleadings in a complaint and hence the dismissal of the petition on the ground that there is no specific pleading regarding the Branch Manager is legally incorrect. The findings of the trial court that since Ex.P3 mentioned Vellore Branch, the evidence of Latheri Branch Manager becomes irrelevant is false. The cheque was physically deposited before Latheri Branch and processed and

forwarded the cheque for collection and return memo entries may reflect the centralized proceedings at Vellore and internal banking procedure. Thus, the Branch Manager of Latheri is a material witness to prove the presentation of the cheque, banking channel used, transmission for clearing. The discrepancy is purely clerical.

2. The trial court ought to have permit the petitioner to adduce evidence which is necessary for the just decision of the case, technicalities should not defeat substantive justice. Allowing the application will not cause any prejudice to the accused. On the contrary, it would assist the Court in properly appreciating the banking process and the circumstances relating to the presentation of the cheque. Perusal to adduce evidence may result in miscarriage of justice. Despite these material facts, the learned Judicial Magistrate (Fast Track Court) failed to properly appreciate the merits and submissions of the Revision Petitioner / Complainant's application and erroneously dismissed the petition; hence, it is prayed to set aside the said order.
5. Heard both sides. Perused the material records. Considered the submissions raised by both sides.
6. The point for determination of this Criminal Revision is whether the Criminal Revision filed by the Revision Petitioner is to be allowed

and whether the order passed in CrI.M.P.No.2619 of 2025 in STC No.56 of 2023 dated 12.02.2026 is liable to be set aside or not?

7. The parties herein are called as per their litigative status and rankings in the trial court for easy and better understanding.

8. The revision petitioner is the complainant in STC No. 56 of 2023 on file of Judicial Magistrate (Fast Track Court), Vellore. The Revision Petitioner instituted a Private Complaint against the Respondent under Section 138 of the Negotiable Instruments Act alleging dishonour of a cheque issued by the respondent/accused. During the course of trial, the petitioner filed CrI.M.P.No.2619 of 2025 seeking permission to recall and examine the Branch Manager of Dhanalakshmi Bank, Latteri Branch, stating that the cheque in question was presented through the said branch and that the proposed witness was required to explain the presentation of the cheque, the banking channel adopted, the transmission of the instrument for collection and the circumstances under which the cheque came to be dishonoured.

9. The trial judge dismissed the application on the grounds that there was no pleading regarding the said witness in the complaint, that

the witness had not been included in the list of witnesses and that Ex.P3 reflected Vellore Branch, thereby rendering the evidence of the Latteri Branch Manager unnecessary. As against the said findings, the Revision Petitioner / Complainant preferred this revision.

10. No doubt, as per the provisio under section 311 of Cr.P.C., it is settled position of law that the power of the criminal Court to summon, recall or examine any witness is intended to ensure that all relevant evidence necessary for arriving at a just decision is brought before the Court. The exercise of such power is not to fill up lacunae in a party's case in a dishonest manner, but equally it should not be refused merely because the application is made at a later stage if the evidence sought to be adduced appears to be relevant and essential for the just determination of the case.

11. In the present case on hand, the trial Judge had held that Ex.P3 refers to Vellore Branch, whereas the petitioner seeks to examine the Branch Manager of Latteri Branch. But, on the other hand it is stated by the petitioner that the Bank is under Centralized processing and by oversight the Branch name was wrongly mentioned and the same has to be proved by the Complainant by calling upon the Bank Manager to depose evidence in respect of the Branch and Bank where the

instrument got returned.

12. Further, the revision petitioner / Complainant has consistently maintained that the cheque was presented through Dhanalakshmi Bank, Latteri Branch and that the Branch Manager is competent to explain the internal banking procedure adopted for collection and dishonour of the cheque. Such evidence, if accepted, may assist the Court in appreciating the documentary evidence already produced. Conversely, if the witness does not support the case of the complainant, the respondent/accused would derive the benefit thereof. Therefore, permitting the examination of the witness does not automatically prejudice either party. No doubt, the principles of natural justice require that every litigant should be afforded a reasonable and effective opportunity to establish his or her case. A fair trial is not confined to the rights of the accused alone. The complainant is equally entitled to a fair opportunity to place all legally admissible evidence before the Court. Denial of such opportunity, without compelling reasons, would impair the fairness of the adjudicatory process.

13. As far as the present case is concerned, the Revision Petitioner is the Complainant having filed the Complaint under Section 138 of

the Negotiable Instruments Act. Denial of chances to the present Revision Petitioner has lead to this Revision. Even though the respondent apprehends that permitting examination of the witness would cause prejudice is not acceptable, because, the respondent / accused shall have full liberty to cross-examine the witness on every aspect of his testimony and to challenge the authenticity or relevance of the documents sought to be produced through him. Therefore, no irreversible prejudice would be caused to the defence.

14. Further, the Hon'ble Apex Court has consistently held in various judgments that the power to summon or recall witnesses should be exercised whenever the evidence appears essential to the just decision of the case, and that criminal Courts should adopt a liberal approach where refusal to receive relevant evidence is likely to result in failure of justice. The paramount consideration is whether the proposed evidence would assist the Court in arriving at a just conclusion and not whether the application is technically imperfect. But, the trial court adopted an unduly technical approach in rejecting the application. The reasons assigned in the impugned order do not sufficiently establish that the proposed evidence is wholly irrelevant or that the application has been filed solely to delay the proceedings. On the contrary, the

evidence sought to be adduced appears to have a reasonable nexus with the foundational facts relating to presentation and dishonour of the cheque.

15. Therefore, this Court is satisfied that one more opportunity deserves to be granted to the revision petitioner to examine the Branch Manager of Dhanalakshmi Bank, Latteri Branch. At the same time, the interest of the respondent requires that the proceedings should not be unnecessarily prolonged. Hence, the opportunity granted shall be treated as a final opportunity, subject to appropriate conditions. Accordingly, this Court holds that the impugned order dated 12.02.2026 passed in CrI.M.P.No.2619 of 2025 in S.T.C.No.56 of 2023 suffers from material irregularity and this Court is inclined to set aside the findings of the trial court, in order to give a proper and necessary chance to the Revision Petitioner to avoid further delay in the proceedings and thus the Point is answered in favour of the petitioner.

In the result,

- (i) this Criminal Revision Petition is allowed;**
- (ii) Accordingly, the order passed order passed in CrI.M.P.No. 2619 of 2025 in STC.No.56 of 2023 dated 03.07.2025**

by the Judicial Magistrate (Fast Track), Vellore , is hereby set aside;

(iii) On payment of process, the Judicial Magistrate is required to summon the Bank Manager for examination as a witness and on his appearance to give sufficient chances to both parties for examination and cross examination, and after affording suitable opportunities to both sides, to dispose the main proceedings at the earliest, in accordance to law;

(iv) The Revision Petitioner and the Respondent are directed to appear before the trial court on 10.07.2026, without expecting further notice from the trial court in this regard.

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Dictated by me to the Steno Typist typed by him directly in the computer, corrected and pronounced by me in open court on 02nd day of July, 2026.

**Principal Sessions Judge
Vellore District**

To

The Judicial Magistrate
(Fast Track Court at Magisterial level),
Vellore. (Through Online)