

**IN THE COURT OF THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, SRIVILLIPUTTUR.**

Present: Thiru. R. Sundara Kamesh Marthandan, M.L.,
Judicial Magistrate, Fast Track Court, Srivilliputtur.

Wednesday, on the 18th day of February 2026

M.P. No. 1 of 2026
in
S.T.C. No. 309 of 2025

Sri Gokulam Chit & Finance Company Pvt. Ltd.,
Represented by its Power Agent G. Mohana

... Petitioner/Complainant

-VS-

S. Absar Ali

... Respondent/Accused

This Petition came up before this Court today i.e., 18.02.2026. Advocates M/s. V.Senthilmurugan, S. Murugan & M. Ajithkumar, for the Petitioner/Complainant. Upon hearing the Petitioner's Counsel and Upon perusing the case records, this Court delivers the following:

ORDER

1. The Petitioner/Complainant had filed the above Petition, seeking leave to permit G. Mohana as the new Power of Attorney holder, to represent the Complainant's company, in this Case and get substituted in the place of earlier power holder Vigneshwaran.

2. In the affidavit filed in support of the above Petition, it is stated that the Complainant is a Registered Company, registered under Indian Companies Act. The

Complainant had filed the above Complaint for offence punishable under section 138 of Negotiable Instruments Act through it's, then Power of attorney Mr. Vigneshwaran and that during the pendency of the above case, the said Vigneshwaran resigned from the Complainant's company. Hence the complainant could not represent the case, through then Power of Attorney Vigneshwaran.

3. The Petitioner had further stated that on 12.01.2026 the Complainant's Company had authorised the deponent namely G. Mohana to represent the Complainant's Company, by executing the General Power of Attorney. The Complainant being Company, can be represented by it's authorised person. Unless the above Petition is allowed, the Petitioner will be put to irreparable loss and hardship.

4. Considering the Scope of the Prayer, sought for, in the above Petition, notice to Respondent is dispensed with.

5. The Point for consideration, is whether the above Petition has to be allowed or not?

6. The Petitioner had filed the copy of the Power of Attorney dated 12.01.2026 authorising the said G. Mohana to represent the Complainant's company. In Order to decide, the above Petition, it would be appropriate to refer the Judgement of the Hon'ble Supreme Court in M/s. M.M.T.C. Ltd. –vs- M/s. Medchil Chemicals & Pharma P.Ltd. & another, reported in 2002 (1) SCC 234, the Hon'ble Supreme Court had held as follows:-

“11. *This Court has, as far back as, in the case of Vishwa Mitter -vs- O.P.Paddar, reported in*

(1983) 4 SCC 701, held that it is clear that anyone can set the criminal law in motion, by filing a complaint of facts, constituting an offence, before a Magistrate, entitled to take cognizance. It has been held that no court can decline to take cognizance on the sole ground that the complainant was not competent to file the complaint. It has been held that if any special statute prescribes offences and makes any special provision for taking cognizance of such offences under the statute, then the complainant requesting the Magistrate to take cognizance of the offence must satisfy the eligibility criterion prescribed by the statute. In the present case, the only eligibility criteria prescribed by Section 142 is that the complaint must be by the payee or the holder in due course. This criteria is satisfied as the complaint is in the name and on behalf of the appellant Company.

12. In the case of Associated Cement Co. Ltd. -vs- Keshvanand reported in (1998) 1 SCC 687, it has been held by this Court that the complainant has to be a corporeal person who is capable of making a physical appearance in the court. It has been held that if a complaint is made in the name of a incorporeal person (like a company or corporation) it is necessary that a natural person represents such juristic person in the court. It is held that the court looks upon the natural person to be the complainant for all practical purposes. It is held that when the complainant is a body corporate it is the de jure complainant, and it must necessarily associate a human being as de facto complaint to represent the former in court proceedings. It has further been held that no Magistrate shall insist that the particular person, whose statement was taken on oath at the first instance, alone can continue to represent the company till the end of the proceedings. It has been held that there may be occasions when different persons can represent the company. It has been held that it is open to the de jure complainant company to

seek permission of the court for sending any other person to represent the company in the court. Thus, even presuming, that initially there was no authority, still the Company can, at any stage, rectify that defect. At a subsequent stage the Company can send a person who is competent to represent the company. The complaints could thus not have been quashed on this ground”.

7. Since the Complainant is a Company and it is stated that it's erstwhile representative had resigned from the Complainant's Company and it is stated that on 12.01.2026 the present representative G. Mohana is authorised by the Complainant's Company, Unless a Corporeal Person, represents the Complainant, which is an incorporeal person, the above Complaint could not be preceded with. Hence this Court is of the considered view that the Petitioner is entitled for Petition relief.

In the result the above Petition is allowed. No Cost.

Dictated to the Steno Typist, Transcribed and Typed by her, directly in Computer corrected and pronounced by me in Open Court this, the 18th day of February 2026.

Judicial Magistrate, Fast Track Court
Srivilliputtur.

Petitioner side witness & Documents : Nil

Respondent side witness & Documents : Nil

Judicial Magistrate, Fast Track Court
Srivilliputtur.