



2026:KER:41451

CRL.MC NO. 3234 OF 2026

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“C.R.”

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

THURSDAY, THE 11TH DAY OF JUNE 2026 / 21ST JYAISHTA, 1948

CRL.MC NO. 3234 OF 2026

AGAINST THE ORDER/JUDGMENT DATED IN ST NO.3958 OF 2017
OF JUDICIAL MAGISTRATE OF FIRST CLASS - IV, ATTINGAL

PETITIONER/S:

SHEELARANI,
AGED 68 YEARS
DWARAKANO1, NEAR KADAKKAVUR
, RAILWAYSTATION, KADAKKAVUR, VARKALA, PIN - 695308

BY ADV SRI.R.ANILKUMAR

RESPONDENT/S:

- 1 S.RAVEENDRAN NAIR ,
AGED 68 YEARS
SUDINAM, VILAYILMOOLA, KEEZHATTINGAL PO, VARKALA, ,
PIN - 695101
- 2 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682031

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
11.06.2026, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



"C.R."

C.S.DIAS,J.

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CrI. M.C.No.3234 of 2026

Dated this the 11th day of June, 2026**ORDER**

This case portrays the ordeal of a complainant in a prosecution under Section 138 of the Negotiable Instruments Act, 1881. Notwithstanding the legislative mandate in the Act, for the expeditious determination of such prosecutions, even after an agonising wait of more than two decades and 100 posting dates, the complainant's cross-examination is yet to be recorded.

2. The 1st respondent instituted Annexure-A complaint before the Judicial First-Class Magistrate Court-I, Attingal, on 10.11.2004, alleging that a cheque for ₹8,00,000/- issued by the petitioner got dishonoured due to insufficiency of funds in her bank account. Though a statutory demand lawyer notice was issued, the



petitioner failed to discharge the liability. Instead, she sent a reply raising untenable contentions. Consequently, the 1st respondent filed the complaint alleging the commission of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (“Act” for brevity).

3. After recording the sworn statement of the complainant, the complaint was taken on file as C.C. No.1064 of 2004 by the Court of the Judicial First-Class Magistrate-I, Attingal. Subsequently, the complaint was transferred to the Court of the Judicial First-Class Magistrate-IV, Attingal (hereinafter referred to as “Trial Court”), and renumbered as S.T. No.3958 of 2017.

4. The petitioner contends that the complainant had filed his proof affidavit in lieu of his chief examination on 03.12.2005 and marked six documents. However, the original documents are currently unavailable. Without any formal proceeding, the Trial



Court has marked the photocopies of the above documents in evidence. It is further alleged that the complainant lacked the financial capacity to pay ₹8,00,000/- to the petitioner. On the above premises, the petitioner filed an application (Annexure-A5) seeking a stay of further proceedings. The application was opposed by the complainant through Annexure-A6 objection. The Trial Court, by Annexure-A7 order, dismissed the application. Hence, the complaint, the proceedings sheet and the impugned order may be quashed.

5. I have heard the learned counsel appearing for the petitioner and the learned Public Prosecutor.

6. Having regard to the nature of the contentions raised, this Court called for a report from the Trial Court to ascertain the present status of the proceedings, the circumstances under which the documents were marked, and to forward a copy of the proceedings sheet in the complaint.



7. The Trial Court has reported that Exts.P1 to P6 were marked on 12.06.2006. As per the then-prevailing practice, the marking of documents was not endorsed on the deposition sheet. When the matter was taken up for cross-examination of the complainant on 20.09.2025, the documents were marked in the deposition sheet. On the same day, the certified copies of the inter-party judgment and decree in O.S.No.220/2005 of the Court of the Subordinate Judge, Attingal, were marked through an additional chief affidavit filed by the complainant as Exts. P7 and P8. Subsequently, on 23.01.2026, the petitioner filed the application to stay the proceedings on the ground that an appeal against Ext.P8 decree is pending before this Court. The Trial Court dismissed the application by the impugned order.

8. The chronology of events discloses the plight of a complainant, who has filed the complaint in November 2004 and his chief affidavit in December, 2005. Despite



the passage of more than two decades, his cross-examination has not yet been recorded. Such a state of affairs is wholly inconsistent with the spirit and object of the statute.

9. A scrutiny of the proceedings sheet reveals that repeated adjournments have been granted for various reasons, notwithstanding the fact that the matter was listed on several occasions specifically for the complainant's cross-examination, often as a last chance. The petitioner had also unsuccessfully challenged an interlocutory order before this Court. The complaint was transferred from the court in which it was originally filed to the present one. Be that as it may, the undeniable fact remains that the trial has not progressed.

10. Though it is asserted in the Criminal Miscellaneous Case that the stay application was necessitated by the marking of documents, a reading of the application shows that the actual ground stated in the



application is to stay the proceeding due to the pendency of an appeal before this Court against the decree passed in the inter-party suit relating to the very same cheque transaction. The civil court has already decreed the suit in favour of the complainant.

11. Relying on the decision of the Hon'ble Supreme Court in **Vishnu Dutt Sharma v. Daya Sapra** [(2009) 13 SCC 729], wherein it was held that there is no legal prohibition against simultaneous continuation of civil and criminal proceedings arising out of the same transaction, the Trial Court dismissed the application.

12. The contention that the stay application was filed because of the marking of documents is demonstrably incorrect. Exts.P1 to P6 had been marked as early as 12.06.2006 without any objection from the petitioner. Having remained silent for two decades, the petitioner cannot turn around and assail the marking of the documents. The contention is legally untenable.



13. Apart from ratio in **Vishnu Dutt Sharma's case** (supra), the legal position stands conclusively settled by a catena of decisions of the Hon'ble Supreme Court, including **P. Swaroopa Rani v. M. Hari Narayana @ Hari Babu** [(2008) 5 SCC 765], **D. Purushotama Reddy and Another v. K. Sateesh** [(2008) 8 SCC 505] and **State of Rajasthan v. Kalyan Sundaram Cement Industries Ltd.** [(1996) 3 SCC 87], that civil and criminal proceedings arising from the same cause of action can proceed simultaneously and independently.

14. In the light of the above authoritative pronouncements, I find no irrationality, illegality or error in the impugned order declining to stay the proceedings.

15. Equally unsustainable is the prayer to quash the complaint after twenty years from its institution. Such delay, by itself, is sufficient to reject the relief sought. Furthermore, a plain reading of the complaint



unmistakably discloses the essential ingredients constituting the offence under Section 138 of the Act.

16. In **Rangappa v. Sri Mohan** [(2010) 11 SCC 441], the Hon'ble Supreme Court has held that the presumption mandated by Section 139 of the Act includes the existence of a legally enforceable debt or liability. It is observed that this presumption is rebuttable, and the accused must raise their defence at trial.

17. In **Rajeshbhai Muljibhai Patel and Others v. State of Gujarat and Another** [(2020) 3 SCC 794], the Supreme Court has held that High Courts should not quash a criminal complaint filed under Section 138 of the Act by going into disputed questions of fact regarding the cheque in question being issued for the discharge of debt or liability. Moreso, when Section 139 raises a statutory presumption as regards the cheque being issued for the discharge of a debt or liability.

18. Likewise, in **Rathish Babu Unnikrishnan v.**



State (NCT of Delhi) and Another [(2022) 20 SCC 661], the Supreme Court held that when there is a legal presumption under Section 139 of the Act, it would not be judicious to carry out a detailed enquiry on a disputed question of fact at the pre-trial stage to quash the complaint.

19. In view of the allegations contained in the complaint and the above settled legal principles, I do not find any ground to quash the complaint. The present proceeding appears to be filed with a view to protracting the final determination of the complaint. The Criminal Miscellaneous Case is meritless and is accordingly dismissed.

20. Before parting with the case, this Court expresses its concern over the manner in which the prosecution has languished for two decades. The object of Chapter XVII of the Negotiable Instruments Act is to instil confidence in commercial transactions and to



ensure prompt redressal of grievances arising from dishonoured cheques. Parliament has expressly mandated that trials under Section 138 be conducted summarily and concluded expeditiously. A complaint instituted in 2004, still pending in 2026, is antithetical to legislative intent.

21. The proceedings sheet reveals a pattern of repeated and liberal adjournments that has frustrated the mandate of law. The justice delivery system cannot permit proceedings under Section 138 to degenerate into interminable litigation. Delay undermines not only the complainant's rights but also the public's confidence in the administration of justice.

22. The Hon'ble Supreme Court, in **In Re: Expeditious Trial of Cases Under Section 138 of the Negotiable Instruments Act, 1881** [(2021) 16 SCC 116; 2022 SCC OnLine SC 649], has issued comprehensive directions for the speedy disposal of



cheque dishonour cases, which are to be scrupulously followed by all courts.

Considering the fact that the complaint is of the year 2004, I direct the Trial Court to dispose the complaint in accordance with law and as expeditiously as possible, at any rate, within two months from the date of production of a copy of this order. Hand over a copy of this order to the Registrar (District Judiciary) and the Director, Kerala Judicial Academy for reference and further action, if any, felt necessary.

Sd/-

C.S.DIAS, JUDGE

dkr



APPENDIX OF CRL.MC NO. 3234 OF 2026

PETITIONER ANNEXURES

- Annexure A HE TRUE PHOTO COPY OF THE CERTIFIED COPY OF COMPLAINT DATED 10.11.2004
- Annexure A1 THE TRUE PHOTO COPY OF CERTIFIED COPY OF LAWYER NOTICE DEMANDING TO PAY RS 8,00,000/
- Annexure A2 THE TRUE PHOTO COPY OF REPLY NOTICE SENT THROUGH COUNSEL OF THE COMPLAINANT COU 23-10-2004
- Annexure A3 TRUE PHOTOCOPY OF THE CERTIFIED COPY OF THE CHIEF AFFIDAVIT DATED 03-12-2005
- Annexure A4 THE TRUE PHOTO COPY OF PROCEEDINGS OF THE DEPOSITION OF WITNESS OF JFMC IV DATED 20TH DAY OF SEPTEMBER 2025
- Annexure A5 THE TRUE PHOTO COPY OF CMP NO 1 IN ST NO 3958/2017 DATED 22-1-2026
- Annexure A6 THE COMPLAINANT FILED AN OBJECTION A5 ON 29-01-2026
- Annexure A7 ORDER IN CMP01/2026 IN STNO. 3958/2017 ON CMP NO. 1/2026 DATED 10-02-2026