

Crl.RC.(MD) No.696 of 2026

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL.RC.(MD) No.696 of 2026

and

Crl.M.P.(MD)No.8270 of 2026

M.Balu

.... Petitioner

Vs.

Ramanathan

....Respondent

Prayer: Criminal Revision Petition, filed under section 438 r/w 442 of BNSS, to call for the records of the order dated 23.10.2025 passed in Crl.MP.No.1342 of 2025 in STC No.85 of 2024 on the file of the learned Fast Track Court at Magisterial Level, Pattukottai, by dismissing the amendment petition filed by the petitioner to amend the cheque No.775066 to 775056 and set aside the same.

For Petitioner : Mr.S.Poornachandran

For Respondent : Mr.A.Sivasubramanian

ORDER

Prologue:

Criminal prosecutions under Section 138 of the Negotiable Instruments Act, 1881, are founded upon a precise statutory

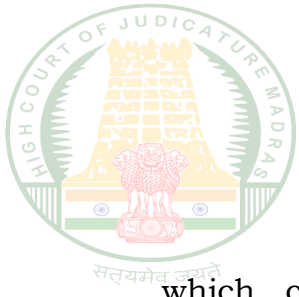


WEB COPY

architecture. The dishonoured cheque, the statutory demand notice, the complaint, and the evidence tendered before the Court together constitute an inseparable chain of facts from which the cause of action emanates. While procedural law is intended to advance justice and not to thwart it, the Court cannot permit substantive alterations which have the effect of changing the very foundation upon which the prosecution rests.

2. The present Criminal Revision Case raises an important question concerning the permissible limits of correction in a criminal complaint under Section 138 of the Negotiable Instruments Act, 1881. The petitioner seeks to characterize the proposed alteration of the cheque number as a mere typographical correction. The respondent, on the other hand, contends that the proposed amendment seeks to substitute the very instrument forming the basis of prosecution and consequently alters the substratum of the case.

3. The issue assumes significance because the identity of the cheque is not a peripheral detail but the foundational fact upon



Crl.RC.(MD) No.696 of 2026

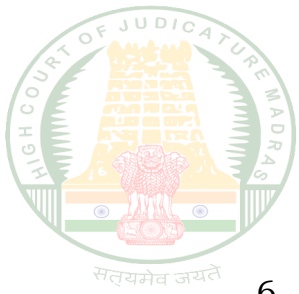
WEB COPY

which criminal liability under Section 138 of the Negotiable Instruments Act, 1881, is predicated. It is in that backdrop that this Court proceeds to examine the legality and correctness of the order dated 23.10.2025 passed in Crl.M.P.No.1342 of 2025 in S.T.C.No.85 of 2024 on the file of the learned Fast Track Court at Magisterial Level, Pattukkottai.

Factual background:

4. The revision petitioner is the complainant in S.T.C.No.85 of 2024 pending before the learned Fast Track Court at Magisterial Level, Pattukkottai. According to the complaint, the respondent borrowed money from the petitioner and, towards discharge of the said liability, issued a cheque bearing No.775066 for a sum of Rs.15,00,000/-.

5. The cheque was allegedly presented for collection and was returned unpaid with an endorsement "Funds Insufficient" on 14.06.2024. Thereafter, a statutory notice dated 18.06.2024 was issued under Section 138(b) of the Negotiable Instruments Act, 1881, demanding payment of the cheque amount.



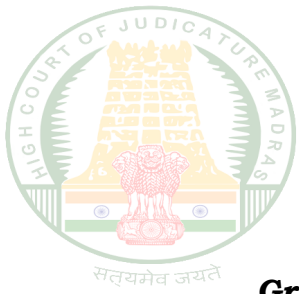
Crl.RC.(MD) No.696 of 2026

WEB COPY

6. Since the amount was not paid within the statutory period, the petitioner instituted the complaint under Section 138 of the Negotiable Instruments Act, 1881. Cognizance was taken by the learned Trial Court on 14.08.2024. The respondent entered appearance. The substance of accusation was explained to him. Subsequently, the complainant examined himself as P.W.1 and marked the cheque as Ex.P1.

7. During the course of cross-examination, specific questions were put to P.W.1 regarding the cheque number and the witness answered the same. Thereafter, the petitioner filed Crl.M.P.No.1342 of 2025 seeking amendment of the cheque number from "775066" to "775056" in the complaint as well as in the proof affidavit.

8. The Trial Court, by order dated 23.10.2025, dismissed the said petition holding that the proposed amendment would alter a material fact forming the foundation of the prosecution. Aggrieved by the same, the present Criminal Revision Case has been filed.



WEB COPY

Grounds of revision:

9. The revision petitioner contends that the learned Trial Court failed to appreciate that the error in mentioning the cheque number was purely inadvertent. According to the petitioner, the proposed amendment does not alter either the cause of action or the nature of the complaint. It is further contended that no prejudice would be caused to the respondent if the amendment is permitted.

10. The petitioner would submit that the respondent had not specifically denied the transaction and therefore the amendment ought to have been allowed in the interest of justice. It is also argued that rejection of the amendment would result in complete failure of justice and would ultimately defeat the prosecution on account of a clerical error.

Submissions of the petitioner:

11. The learned counsel appearing for the petitioner submitted that Courts have consistently adopted a liberal approach in permitting correction of clerical and typographical errors. According to him, the cheque sought to be substituted was always the cheque



WEB COPY

intended to be relied upon and the incorrect mention of the number was merely an accidental error.

12. It was further argued that procedural technicalities should not override substantive justice and that the respondent cannot claim any vested right in a mistake committed by the complainant. The learned counsel therefore prayed that the impugned order be set aside and the amendment petition be allowed.

Submissions of the respondent:

13. Per contra, learned counsel appearing for the respondent supported the order of the learned Trial Court. It was contended that the complaint, statutory notice, sworn statement, proof affidavit and the evidence of P.W.1 uniformly refer to cheque No.775066. The respondent pointed out that the defence had already cross-examined P.W.1 on the basis of the said cheque number.

14. The learned counsel submitted that after commencement of trial and after completion of cross-examination, the complainant cannot be permitted to substitute an entirely different cheque. It was



WEB COPY

argued that the proposed amendment is not a correction of a typographical error but an attempt to replace the very instrument upon which the prosecution is founded.

15. The learned counsel further submitted that criminal proceedings do not recognize amendment of complaints in the same manner as civil proceedings and that Order VI Rule 17 CPC has no direct application to criminal prosecutions. Therefore, it was urged that the order of dismissal passed by the learned Trial Court warrants no interference.

16. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for consideration:

17. The following point arises for determination:

Whether the learned Trial Court was justified in dismissing the petition seeking amendment of the cheque number from 775066 to 775056 in the complaint and proof affidavit after commencement of trial and after cross-examination of P.W.1?



WEB COPY

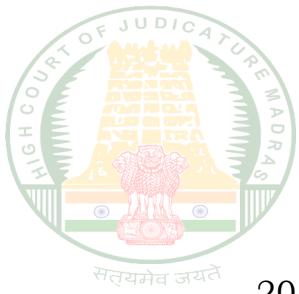
Analysis:

18. The offence under Section 138 of the Negotiable Instruments Act, 1881 is a statutory offence.

The ingredients constituting the offence are:

- (i) drawing of a cheque on an account maintained by the accused;
 - (ii) presentation of the cheque within the prescribed period;
 - (iii) dishonour of the cheque;
 - (iv) issuance of statutory notice within the prescribed period;
- and
- (v) failure to make payment within fifteen days of receipt of notice.

19. The cheque itself is therefore not merely a piece of evidence but the foundational instrument giving rise to the cause of action. The statutory notice under Section 138(b) is equally significant because it informs the drawer regarding the specific cheque allegedly dishonoured and provides an opportunity to make payment.



WEB COPY

20. The complaint must necessarily be founded upon the same cheque referred to in the statutory notice. Any alteration which affects the identity of the cheque has direct implications upon the cause of action and the validity of the statutory notice.

21. While criminal Courts possess incidental powers to permit correction of clerical, typographical or accidental errors, such power cannot be extended to permit alteration of material particulars constituting the very basis of the prosecution.

22. This Court has carefully examined the records and the rival submissions. The admitted position is that the statutory notice refers to cheque No.775066. The complaint also refers to cheque No. 775066. The sworn statement and proof affidavit similarly refer to cheque No.775066. The cheque was marked as an exhibit in the trial proceedings under the said number. More importantly, P.W.1 was specifically cross-examined regarding the cheque bearing No.775066. Therefore, the prosecution as originally instituted proceeded entirely on the footing that cheque No.775066 constituted the cheque giving



WEB COPY

rise to the offence. At this stage, the petitioner seeks substitution of the cheque number with cheque No.775056.

23. The contention that the amendment is merely typographical cannot be accepted in the facts of the present case. A typographical correction ordinarily relates to an obvious clerical mistake where the identity of the subject matter remains unchanged. However, where the correction seeks to substitute one cheque number with another cheque number, the identity of the instrument itself stands altered.

24. The cheque number is not a decorative detail. It is an identifying feature of the negotiable instrument. The statutory notice issued under Section 138(b) is cheque-specific. The cause of action under Section 138 arises in relation to a particular dishonoured cheque and not in relation to a general financial transaction.

25. If the amendment is permitted, the Court would effectively be allowing the complainant to prosecute the respondent in respect of a cheque different from the one described in the statutory notice



WEB COPY

and complaint. Such an exercise would have the effect of altering the foundation of the prosecution. Equally significant is the stage at which the amendment has been sought.

26. The trial has already commenced. P.W.1 has been examined. Cross-examination has been undertaken by the defence on the basis of the pleadings as originally framed. The respondent has acquired a valuable right to contest the prosecution based upon the case originally projected by the complainant.

27. Permitting substitution of the cheque number after commencement of trial would undoubtedly prejudice the defence. The learned Trial Court has correctly observed that the identity of the cheque forms the very foundation of the prosecution. This Court finds no perversity, illegality or jurisdictional error in the said conclusion.

28. The argument that refusal of amendment would result in collapse of the prosecution cannot by itself justify judicial intervention. Courts are duty-bound to administer justice in



WEB COPY

accordance with law. Where the statutory framework itself is founded upon a specific cheque and a specific statutory notice, the Court cannot permit alteration of the foundational facts merely because the complainant may otherwise face adverse consequences.

29. The revisional jurisdiction of this Court is intended to correct patent illegality, perversity or miscarriage of justice. The impugned order discloses neither. On the contrary, the learned Trial Court has adopted a legally sustainable approach consistent with the nature of proceedings under Section 138 of the Negotiable Instruments Act, 1881.

30. This Court holds that the proposed alteration of cheque number from 775066 to 775056 is not a mere clerical or typographical correction. The proposed amendment affects the identity of the cheque which constitutes the very foundation of the prosecution. The learned Trial Court was therefore justified in holding that such amendment cannot be permitted after commencement of trial and after cross-examination of P.W.1.



WEB COPY

31. Consequently, the impugned order dated 23.10.2025 does not suffer from any illegality, impropriety or material irregularity warranting interference under the revisional jurisdiction of this Court.

Epilogue:

32. The law governing negotiable instruments is founded upon certainty, precision and commercial credibility. A prosecution under Section 138 of the Negotiable Instruments Act, 1881, cannot float upon shifting factual foundations. The cheque identified in the statutory notice, the complaint and the evidence constitutes the very axis around which the prosecution revolves. Once that axis is sought to be replaced, the Court ceases to be dealing with a correction and begins to confront a transformation of the cause itself.

33. Judicial discretion undoubtedly exists to cure accidental slips and clerical lapses. However, such discretion cannot be exercised in a manner that rewrites the prosecution or prejudices the defence after the commencement of trial. The distinction between a typographical error and a foundational alteration must always be



Crl.RC.(MD) No.696 of 2026

WEB COPY

vigilantly preserved, for upon that distinction rests the fairness of the criminal process.

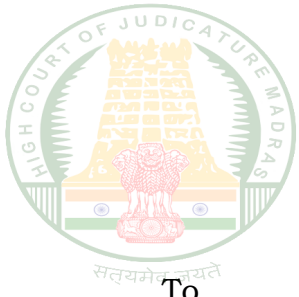
34. The learned Trial Judge has correctly appreciated this distinction and has refused to permit an amendment which would alter the identity of the very cheque forming the basis of prosecution. This Court finds no reason to take a different view.

35. In the result, this Criminal Revision Case is **dismissed**. The order dated 23.10.2025 passed in Crl.M.P.No.1342 of 2025 in S.T.C.No.85 of 2024 on the file of the Fast Track Court at Magisterial Level, Pattukkottai, is hereby **confirmed**.

36. The learned Trial Court is directed to proceed with S.T.C.No.85 of 2024 and dispose of the same on its own merits and in accordance with law, uninfluenced by any observation made in this order except to the extent necessary for deciding the present revision. Consequently, connected miscellaneous petition is closed.

08.06.2026

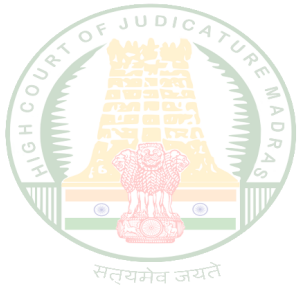
NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml



Crl.RC.(MD) No.696 of 2026

To
WEB COPY

1. The Judicial Magistrate,
Fast Track Court at Magisterial Level,
Pattukkottai
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY

Case Citation: (2026) ibclaw.in 3951 HC



CrI.RC.(MD) No.696 of 2026

L.VICTORIA GOWRI, J.

Sml

CrI.RC.(MD)No.696 of 2026

08.06.2026