



2026:KER:45852

OP(Crl.) Nos.717 & 716/2025

-1:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

MONDAY, THE 29TH DAY OF JUNE 2026 / 8TH ASHADHA, 1948

OP(CRL.) NO. 717 OF 2025

AGAINST THE ORDER DATED 07.08.2025 IN CMP 4346/2025 IN
ST NO.4005 OF 2023 OF JUDICIAL MAGISTRATE OF FIRST
CLASS, TALIPARAMBA

PETITIONERS/ACCUSED 1 TO 3:

- 1 PTB CHITS PVT LTD
REPRESENTED BY ITS MANAGING DIRECTOR BIJU P.T.,
MANNA TALIPARMABA,
KANNUR DISTRICT,
PIN - 670141
- 2 BIJU P.T.
AGED 54 YEARS
S/O. THOMAS,
POWATHUPARAMBIL HOUSE,
MANNA TALIPARMABA,
KANNUR DISTRICT,
PIN - 670141
- 3 SHEEBA BIJU
AGED 46 YEARS
W/O. BIJU P.T,
POWATHUPARAMBIL HOUSE,
MANNA TALIPARMABA,
KANNUR DISTRICT,
PIN - 670141

BY ADVS.SRI.M.ANUROOP
SRI.M.DEVESH
SHRI.MURSHID ALI M.
SMT.JYOTHIS MARY



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OP(Crl.) Nos.717 & 716/2025

-:2:-

RESPONDENT/COMPLAINANT:

PRASAD P.
AGED 42 YEARS
S/O CHANDRAN,
PANCHAMI,
PUZHATHI THERU,
CHIRAKKAL P.O,
KANNUR DISTRICT,
PIN - 670011

BY ADVS.SHRI.ASWANTH P.T.
SHRI.MANUEL P.J.

THIS OP (CRIMINAL) HAVING BEEN FINALLY HEARD ON
23.06.2026, ALONG WITH OP(CRL.).716/2025, THE COURT ON
29.06.2026 DELIVERED THE FOLLOWING:



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OP(Crl.) Nos.717 & 716/2025

-:3:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

MONDAY, THE 29TH DAY OF JUNE 2026 / 8TH ASHADHA, 1948

OP(CRL.) NO. 716 OF 2025

AGAINST THE ORDER DATED 11.08.2025 IN CMP 4344/2025 IN ST
NO.1969 OF 2019 OF JUDICIAL MAGISTRATE OF FIRST CLASS,
TALIPARAMBA

PETITIONERS/ACCUSED 1 TO 3:

- 1 PTB CHITS PVT LTD
REPRESENTED BY ITS MANAGING DIRECTOR,
BIJU P.T., MANNA,
TALIPARMABA,
KANNUR DISTRICT,
PIN - 670141
- 2 BIJU P.T.
AGED 54 YEARS
S/O. THOMAS,
POWATHUPARAMBIL HOUSE,
MANNA TALIPARMABA,
KANNUR DISTRICT,
PIN - 670141
- 3 SHEEBA BIJU
AGED 46 YEARS
W/O BIJU,
POWATHUPARAMBIL HOUSE,
MANNA TALIPARMABA,
KANNUR DISTRICT,
PIN - 670141

BY ADVS.SRI.M.ANUROOP
SRI.M.DEVESH
SHRI.MURSHID ALI M.
SMT.JYOTHIS MARY



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OP(Crl.) Nos.717 & 716/2025

-:4:-

RESPONDENT/COMPLAINANT:

SURESHKUMAR N.R.
AGED 47 YEARS
S/O RAJAPPAN N.S.,
NADUVILEDATH,
UDAYAGIRI P.O.,
THALIPARAMBA,
KANNUR DISTRICT,
PIN - 670571

BY ADVS.SHRI.ASWANTH P.T.
SHRI.MANUEL P.J.

THIS OP (CRIMINAL) HAVING BEEN FINALLY HEARD ON
23.06.2026, ALONG WITH OP(CRL.) .717/2025, THE COURT ON
29.06.2026 DELIVERED THE FOLLOWING:



J U D G M E N T

The orders passed by the Judicial First Class Magistrate Court, Taliparamba, disallowing the request of the accused in two cases pertaining to the commission of offence under Section 138 of the Negotiable Instruments Act, 1881(*in short, 'NI Act'*), to send the impugned cheques for expert analysis of the writings in it, are under challenge in these original petitions filed under Article 227 of the Constitution of India.

2. O.P.(Crl.)No.716/2025 relates to S.T.C.No.1969/2019 in which the allegation is that the petitioners/accused, who represent a chit fund company, had issued a cheque for Rs.4,00,000/- to the complainant/respondent towards disbursement of chitty amount, and that the above said cheque was dishonoured due to stop payment instructions given by the petitioners. Alleging that the petitioners did not care to make payment of the cheque amount despite the receipt of statutory notice, the respondent/complainant had instituted the complaint alleging the commission of offence under Section 138 of the NI Act.



3. O.P.(Crl.)No.717/2025 relates to S.T.C.No.4005/2023 instituted by the respondent/complainant in connection with the dishonour of a cheque for Rs.4,00,000/- allegedly issued by the petitioners who represent a chit fund company. The respondent/complainant would allege that the aforesaid amount of Rs.4,00,000/- was obtained by the petitioners with the assurance that the respondent/complainant would be accommodated as a Director of the petitioners' company, and that the petitioners failed to honour the above assurance. When the respondent/complainant demanded back the aforesaid amount, the petitioners are said to have executed and issued a cheque which later on got dishonoured due to the stop payment instructions given by the petitioners to their bank.

4. In both the above cases the petitioners, at the stage of defence evidence, filed applications to send the impugned cheques for expert analysis in order to show that the entries in the above cheques were not made by the petitioners. Those applications were dismissed by the court below by the impugned orders. Challenging the aforesaid orders of the court below, the petitioners are here before this Court with these original petitions.



5. Heard the learned counsel for the petitioners and the learned counsel for the respondent/complainant.

6. In the orders under challenge, the learned Magistrate observed that the contention of the petitioners that the entries in the impugned cheques were not made by them, assumes no relevancy in view of the statutory presumption under Section 139 of the NI Act once the execution of the cheque is established. According to the court below, even if it is proved that the handwritings contained in the impugned cheques were not that of the petitioners, it will not make any difference, if it is shown that the cheques were executed and issued by the petitioners.

7. It is true that in normal cases the contention of the accused that the entries in the impugned cheques were not in the handwriting of the accused, is of no consequence once the execution of the cheque by the accused is established. However, in a case where the complainant comes forward with the definite contention that the accused wrote the entries in the impugned cheque in his handwriting and signed it in front of the complainant, the accused cannot be denied an opportunity to show that the aforesaid contention of the complainant is wrong. In such



cases, if the accused succeeds in proving that the handwritings in the impugned cheques are not that of the accused, then the aforesaid aspect would strike on the acceptability and credibility of the case of the complainant.

8. In S.T.No.1969/2019, the respondent/complainant categorically stated in his testimony as PW1 (Ext P3 in O.P.(Crl.)No.716/2025), during cross-examination, that the entries in Ext P1 cheque were made in the handwriting of the accused. The respondent/complainant further asserted that he is ready to prove the above aspect. Likewise, in the proof affidavit filed by the complainant in S.T.C.No.4005/2023 (Ext P3 in O.P.(Crl.) No.717/2025) it has been stated by the respondent/complainant in unequivocal terms that the second accused had made the entries in the impugned cheque in front of the respondent/complainant at the establishment of the respondent/complainant. Thus, the respondent/complainant had come forward with a specific contention that the accused made entries in the impugned cheques in his handwriting in front of the respondent/complainant. Having regard to the above nature of the contention raised by the respondent/complainant, the question whether



the handwritings in the impugned cheques are that of the accused, is having great relevancy. This is because of the reason that the credibility of the evidence tendered by the complainant about the execution of the cheques by the accused, would be at stake, if it is shown that the handwritings found in the impugned cheques were not that of the accused. When viewed in the above perspective, the accused cannot be denied an opportunity to show that the handwritings in the impugned cheques are not that of the accused, and hence the evidence adduced by the complainant in the above regard, is vitiated for lack of bonafides. Therefore, the impugned orders of the court below are liable to be set aside.

In the result, both these original petitions stand allowed as follows:

- (i) The order dated 11.08.2025 in C.M.P.No.4344/2025 in S.T.C.No.1969/2019 and the order dated 07.08.2025 in C.M.P.No.4346/2025 in S.T.C.No.4005/2023 of the Judicial First Class Magistrate Court, Taliparamba, are hereby set aside.
- (ii) The learned Magistrate is directed to take necessary steps to send the impugned cheques in those cases for expert analysis of the entries in it to ascertain whether it were in the handwritings of the accused.



- (iii) It is made clear that the petitioners/ accused will be having the responsibility to make available the specimen handwritings of the accused for the contemporary period for facilitating the expert analysis. The expenses for such expert analysis shall also be met by the accused.
- (iv) If the petitioner/accused fails to make available the specimen handwritings as stated above within a reasonable period, the Trial Court will be free to wind up the proceedings and to proceed with the disposal of the cases on the basis of the available evidence.

(sd/-)

G. GIRISH, JUDGE

DST



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OP(Crl.) Nos.717 & 716/2025

-:11:-

APPENDIX OF OP(CRL.) NO. 717 OF 2025

PETITIONER EXHIBITS

- | | |
|-------------------|--|
| EXHIBIT P1 | THE TRUE COPY OF THE COMPLAINT FILED BY THE
COMPLAINANT/RESPONDENT BEFORE THE JFCM,
KANNUR DATED 01-06-2020 |
| EXHIBIT P2 | THE TRUE COPY OF THE ORDER IN CMP NO.
4346/2025 IN STC NO. 4005/2023 BY THE HON'BLE
JUDICIAL FIRST-CLASS MAGISTRATE, TALIPARAMBA
DATED 07-08-2025 |
| EXHIBIT P3 | THE TRUE COPY OF THE CHIEF AFFIDAVIT AND
CROSS EXAMINATION OF THE COMPLAINANT DATED
22-01-2025 & 12-02-2025 |
| EXHIBIT P4 | THE TRUE COPY OF THE PETITION FILED U/S 451
BNS (DATE NOT SHOWN) |



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OP(Crl.) Nos.717 & 716/2025

-:12:-

APPENDIX OF OP(CRL.) NO. 716 OF 2025

PETITIONER EXHIBITS

- | | |
|-------------------|--|
| EXHIBIT P1 | THE TRUE COPY OF THE COMPLAINT FILED BY THE
COMPLAINANT/RESPONDENT BEFORE THE JFCM,
TALIPARAMAB DATED 11-12-2019 |
| EXHIBIT P2 | THE TRUE COPY OF THE ORDER IN CMP NO.
4344/2025 IN STC NO. 1969/2019 BY THE HON'BLE
JUDICIAL FIRST-CLASS MAGISTRATE, TALIPARAMBA
DATED 11-08-2025 |
| EXHIBIT P3 | THE TRUE COPY OF THE CHIEF AFFIDAVIT AND
CROSS EXAMINATION OF THE COMPLAINANT DATED
24-12-2024 & 22-03-2025 |