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CrI.O.P.No.2753 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2026

CORAM:

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.2753 of 2026

and

CrI.MP.No.1862 of 2026

Kanimurugan

...Petitioner

Vs.

Senthilkumar

...Respondent

Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, (BNSS), 2023, to set aside the order in CrI.M.P.No.217 of 2025 in STC.N.88 of 2021 dated 06.12.2025 on the file of the District Munsif-cum-Judicial Magistrate Court, Kattumannarkoil.

For Petitioner : Mr.G.D.Senthilvel

ORDER

This criminal original petition has been filed seeking to quash the order dated 06.12.2025 made in CrI.M.P.No.217 of 2025 in STC.N.88 of 2021 on the file of the District Munsif-cum-Judicial Magistrate Court, Kattumannarkoil.



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2. Brief facts of the case are as follows:-

The petitioner is an accused facing trial in STC.No.88 of 2021 before the District Munsif-cum-Judicial Magistrate Court, Kattumannarkoil for the offence under Section 138 of the Negotiable Instruments Act, pursuant to the complaint made by the respondent/complainant. The petitioner filed a petition under Section 311 of Cr.P.C., in CrI.MP.No.217 of 2025, seeking to recall P.W.1 and D.Ws.1 & 2. However, the trial court, vide order dated 06.12.2025, dismissed the said petition. Challenging the same, the petitioner has come up with this petition.

3. Learned counsel for the petitioner submitted that since the petitioner has certain documents to prove his innocence, he has filed the petition in CrI.M.P.No.217 of 2025 seeking to recall P.W.1 and D.Ws.1 and 2 for further cross-examination and to mark additional documents. However, the trial court, without considering the fact that the same is necessary in order to arrive at a fair decision, had dismissed the said petition, vide impugned order dated 06.12.2025, which is not sustainable. He further submitted that if the petitioner is not given an opportunity to cross-examine the witnesses and to mark additional documents, he would be put to a great predicament.



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4. This Court gave its careful consideration to the arguments advanced by the learned counsel for the petitioner and perused the materials available on record.

5. On a perusal of the materials available on record, it is seen that the respondent/complainant examined himself as P.W.1 as early as on 19.04.2022 and marked seven documents on his behalf. As the petitioner/accused did not come forward to cross-examine the respondent/complainant, despite several opportunities being granted to him, the evidence on the side of the complainant was subsequently closed on 22.11.2022. It is also seen that the petitioner/accused had earlier filed a petition under Section 311 of Cr.P.C., seeking to recall P.W.1 and the same was also allowed. Thereafter, P.W.1 was recalled and cross-examined by the petitioner/accused on 09.01.2023 and the evidence was closed on 20.01.2023. Pursuant thereto, the matter was posted for defence side evidence on several occasions. However, as the petitioner/accused failed to utilise those opportunities, the defence side evidence was closed on 06.03.2023.

6. It is further seen that on 10.03.2023, the petitioner filed a petition under Section 254(2) of Cr.P.C. seeking to examine ten other persons as mentioned therein, as defence side witnesses, and the same was allowed on



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23.03.2023. When the said petition was pending at the stage of 'issuance of summons to the said ten persons', the petitioner/accused filed another petition under Section 315 of Cr.P.C. seeking to examine himself as witness, and the same was allowed. Based on the same, the petitioner/accused was examined in chief on 21.06.2023 and cross-examined on 04.07.2023. As the petitioner/accused did not pay batta to issue summons to the said ten witnesses, the evidence on the side of the defence was closed on 29.11.2023. Thereafter, on account of absence of the petitioner/accused, bailable warrant was issued against him on 22.01.2024 and subsequently, the same stood cancelled on 26.09.2025. It is evident that only after cancellation of the bailable warrant, the petitioner has come up with the petition in CrI.M.P.No.217 of 2025 seeking to recall P.W.1 and D.Ws.1 & 2, that too when the case was posted for arguments.

7. The records disclose that despite sufficient time being afforded, the petitioner failed to avail the opportunities granted by the Court below. The impugned order dated 06.12.2025 dismissing the petition in CrI.M.P.No.217 of 2025 in STC.N.88 of 2021, came to be passed only after repeated indulgence shown by the trial Court. It is also seen that though a copy of the impugned order dated 06.12.2025 was made ready as early as on 18.12.2025 and the same was delivered to the petitioner on 24.12.2025, the



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petitioner has filed the present petition only on 03.02.2026 (presented on 09.01.2026), after a lapse of about two months from the date on which the order impugned was made ready, that too when the matter stands posted to 09.02.2026 for judgment. The said act of the petitioner/accused is nothing but a tactic to drag on the proceedings. Further, no sufficient reasons have been assigned by him before the court below to allow the recall petition filed by him.

8. It is well settled that the principles of natural justice require reasonable opportunity and not endless opportunity. A litigant cannot take advantage of his own inaction and subsequently contend that he was denied fair hearing. In *State of Uttar Pradesh vs. Shambhu Nath Singh, (2001) 4 SCC 667*, the Apex Court emphasized that Courts must ensure that criminal proceedings are not unduly delayed at the instance of parties. Hence, this Court is of the view that the trial court, after careful consideration of the all the above said facts, dismissed the recall petition filed by the petitioner, keeping in mind Section 143 of the Negotiable Instruments Act, which prescribes time limit for completing the trial of cases for the offence under Section 138 of the NI Act.



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9. In view of the foregoing discussion, this Court does not find any infirmity or perversity in the impugned dismissal order passed by the court below and, is therefore, not inclined to interfere with the same.

10. This criminal original petition stands dismissed accordingly. Consequently, the connected miscellaneous petition stands closed.

06.02.2026

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Neutral Citation: Yes/No

To:

The District Munsif-cum-Judicial Magistrate Court,
Kattumannarkoil.



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A.D.JAGADISH CHANDIRA, J.

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