



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-08-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 11659 of 2026 & Crl.M.P.no.8363 of 2026

M.R.Chidambaram
S/o.M.Ramasamy,
Proprietor,
M/s.MRC Engineering Projects,
No.4/14, Kattabomman Street,
Periyar Nagar, Nesappakkam,
Chennai - 600 078.

..Petitioner(s)

Vs

K.Muthukrishnan
S/o.M.Kuppusamy,
Proprietor,
M/s.Sri Selvaganapathy Engineers,
New No.3, Old No.29, First Street,
Thiru Nagar, Vadapalani,
Chennai - 600 026.

..Respondent(s)

Prayer : Criminal Original Petition filed under section 528 of BNSS to set aside the order made in Crl.M.P.No.2 of 2026 in STC No.5607 of 2024 dated 09.04.2026 on the file of the FTC III, XXXVI Metropolitan Magistrate, Saidapet, Chennai 600 015 and allow the above Criminal Original Petition and pass such further or other orders as this Honble Court may thus deem fit and thus render justice.

For Petitioner(s):

Mr.K.Magesh

For Respondent(s):

M/s. R.Suryaprakash



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ORDER

This Criminal Original Petition has been filed to set aside the Order made in Crl.M.P.No.2 of 2026 in STC.No.5607 of 024 dated 09.04.2026 on the file of the FTC III XXXVI Metropolitan Magistrate, Saidapet, Chennai dismissing the petition filed under section 311 of Cr.P.C. to examine a witness.

2. The petitioner is the accused in the complaint lodged by the respondent for the offence under section 138 of the Negotiable Instruments Act alleging that he had borrowed a loan of Rs.8,70,000/- from Keyam Engineering Enterprises, Chennai for the work done in the year 2016 and for discharging the said liability, the petitioner gave a cheque for a sum of Rs.28,70,000/- dated 27.07.2022. However, the cheque was dishonoured and after issuance of statutory notice, the respondent filed the complaint.

3. In order to prove the charge under section 138 of the Negotiable Instruments Act, the respondent examined himself as P.W.1 and marked Ex.P.1 to P.5 on his side. The petitioner had cross examined P.W.1 and marked Ex.D.1 to Ex.D.5. Even according to the respondent, the petitioner failed to refund a sum of Rs.8,70,000/- which was given for executing the project entrusted by Keyam Engineering Enterprises. Further during the cross examination of



P.W.1, he had categorically stated that the accused had received a sum of Rs.8,70,000/- from the said Keyam Engineering Enterprises, Chennai.

Therefore, in order to prove that the said amount was not received from Keyam Engineering Enterprises by the petitioner herein,,he has to examine the competent person of Keyam Engineering Enterprises. Therefore, the petitioner filed a petition under section 311 of Cr.P.C. to issue summons to the Manager of Keyam Engineering Enterprises situated at Plot No.64, 4th East Street, Kamaraj Nagar, Thiruvanmiyur, Chennai – 600 041. However, the trial Court had dismissed the petition for the reason that once the contents of the cheque and the signature in the cheque are admitted, it will lead to presumption under section 139 of the negotiable instruments Act arises in favour of the complainant. The proposed witness is a third party and he does not directly relate to issuance of the cheque and dishonour of the cheque.

4. On a perusal of the cross examination of P.W.1 and other documents,such as complaint, reveal that according to the respondent the petitioner had received a sum of Rs.8,70,000/- from Keyam Engineering Enterprises. Therefore, in order to disprove the charge levelled against the petitioner under section 138 of the Negotiable Instruments Act, the petitioner had filed a petition under section 311 of Cr.P.C. to examine a person from Keyam Engineering Enterprises. The learned counsel appearing for the petitioner also produced the document relating to the work order and statement



of accounts pertaining to the alleged project for which the petitioner had issued the cheque to the respondent. In view of the above, the trial Court ought not to have dismissed the said application. Hence, the Order passed by the trial Court cannot be sustained.

5. Accordingly, this Criminal Original Petition is allowed and the Order passed by the trial Court in Crl.M.P.No.2 of 2026 in STC.No.5607 of 2024 dated 09.04.2026 is set aside. Consequently, connected miscellaneous petition is closed. The petitioner is directed to pay necessary batta before the trial Court for issuing summons to the witness.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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G.K.ILANTHIRAIYAN, J.

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