



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-07-2026

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL OP No. 19001 of 2026

and

CRL.MP.No.12655 of 2026

S.Kasturi

..Petitioner(s)

Vs

Mr. Subhash Surana

..Respondent(s)

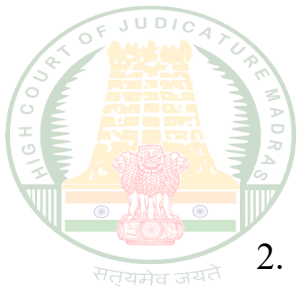
Prayer: This Criminal Original Petition is filed under Section 528 of BNSS, praying to call for the entire records relating to order dated 01-07-2026 passed in Crl MP No.635 of 2026 in STC No.165 of 2026 on the file of the XX Metropolitan Magistrate Court, Allikulam, Chennai and set aside the same and permit the petitioner to cross examine the PW1.

For Petitioner(s): Mr.S.Thiruvengadam

For Respondent(s): M/s.M.Prarthana

ORDER

The prayer made in the Criminal Original Petition is to set aside the order made in Crl MP No.635 of 2026 in STC No.165 of 2026 dated 01.07.2026.



2. On a perusal of the records, it can be seen that the case is a private complaint complaining an offence under Section 138 of the Negotiable Instruments Act.

3. The learned counsel for the petitioner would submit that when the PW1 was cross-examined on a particular day, there was commotion between PW1 and the counsel, who cross-examined. As a matter of fact, the Court had to pass over the matter in order to pacify PW1 and only thereafter further cross-examination was made. In the melee, one of the document was not put across to the PW1 and certain questions relating to vital aspects were not made. Therefore, when the present application is filed to recall, the same is now dismissed and therefore, the learned counsel submitted that an opportunity should be given to the petitioner.

4. Per contra, the learned counsel appearing for the respondent submitted that the cross-examination was completed and thereafter the matter was posted on several occasions for further cross and for Section 313 questioning of the accused. Only after the issuance of bailable warrant and recalling the same, the 313 was completed. Thereafter, they took several occasions for adducing defence evidence. The complainant cross-examined the defence witness on the same day and the defence evidence is also over and thereafter, the matter was



posted for arguments. After hearing the arguments since the accused did not appear, now NBW is issued and the matter is posted for judgment. At this stage, the present application was made.

5. I have considered the rival submissions made on either and material records of the case.

6. As far as warrant is concerned, it is for the petitioner to appear before the Trial Court and file such application with due surrender application and it is for the Trial Court to consider and recall the warrant in the manner known to law. As far as the present Original Petition is concerned, the same relates to the order passed in the recall application.

7. I have perused the cross examination done. After considering the case of the complainant and the defence of the accused, I am of the view that already the questions relating to the defence are put across to PW1 and the purpose of 311 is only to provide an opportunity and it is not an action replay or for better cross-examination from a different angle.

8. In view thereof, the prayer made in the Criminal Original Petition cannot be countenanced, as such, it is disposed of. As observed supra, it is for the petitioner to approach the Trial Court with a prayer to recall the warrant. On



any day, if the petitioner appears, the same shall be considered by the Trial Court. Consequently, connected miscellaneous petition is closed.

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17-07-2026

Neutral Citation: No
PVS

To
XX Metropolitan Magistrate Court, Allikulam, Chennai



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D.BHARATHA CHAKRAVARTHY, J.

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