



Crl.OP(MD).No.13966 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 10.08.2026

PRONOUNCED ON : 11.08.2026

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.13966 of 2026

and

Crl.M.P(MD)No.13563 of 2026

S.Pandi Sridhar

...Petitioner/Accused

Vs

S.J.Kuppusamy

.....Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in Cr.M.P.No.558 of 2026 in STC.No.874 of 2016 pending on the file of the Judicial Magistrate No.II, Fast Track Judge (M.L) at Madurai and to set aside the order dated 22.06.2026 passed in the above Cr.M.P.No.558 of 2026 in STC.No.874 of 2016 pending on the file of the Judicial Magistrate No.II, Fast Track Judge (M.L) at Madurai.

For Petitioners : Mr.A.Raja

ORDER

The present petition has been filed by the accused person in STC.No. 874 of 2016 on the file of the Judicial Magistrate No.II, Fast Track Judge



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(M.L) at Madurai challenging the order passed in Crl.M.P.No.558 of 2026 on 22.06.2026 wherein the application filed by the petitioner under Section 311 of Cr.P.C was rejected.

2.A perusal of the records reveal that the petitioner is an accused in a private complaint filed under Section 138 r/w Section 142 of Negotiable Instruments Act.

3.PW1 was chief examined on 02.02.2018 and it was posted for cross examination on various dates and it was closed suo motu on 06.04.2018. Thereafter, the petitioner had filed an application under Section 311 of Cr.P.C to recall PW1 for cross examination in Crl.MP.No.4804 of 2018 and the same was allowed on 06.07.2018. Thereafter, PW1 had appeared from 16.07.2018 to 02.01.2019 and the petitioner failed to avail the said opportunity and therefore, cross examination of PW1 was *suo moto* closed.

4.The petitioner herein had filed a second application to recall PW1 in Crl.OP.No.1104 of 2024. The said application came to be dismissed on 13.02.2024. The petitioner had challenged the same before this Court in Crl.OP(MD).No.2936 of 2024 and the same was dismissed by this Court on 18.12.2025.

5.The petitioner has filed the third application under Section 311 of Cr.P.C in Crl.M.P.No.558 of 2026 seeking to recall not only PW1 but also



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permit the defence side evidence. This application came to be dismissed by the trial Court on 22.06.2026. Challenging the same, the present application has been filed.

6. According to the learned counsel appearing for the petitioner, the petitioner has so far not cross examined PW1 at any point of time and therefore, to meet ends of justice, one opportunity may be granted to cross examine PW1. The learned counsel had further submitted that merely because the previous applications filed under Section 311 of Cr.P.C were dismissed, that would not be a legal impediment for filing a fresh application.

7. The learned counsel for the petitioner had further submitted that the questioning under Section 313 of Cr.P.C was completed and thereafter, it was posted for defence side evidence on 31.10.2023. On 22.11.2023, the chief and cross examination of DW1 was completed and it was posted on 28.11.2023 to let in further evidence on the side of the accused. On 28.11.2023, the witnesses on the side of the accused were not produced and it was adjourned to 05.12.2023. Even on the said date, the defence side evidence was not produced and hence, it was *suo moto* closed and posted for argument on 23.12.2023. Therefore, according to the learned counsel appearing for the petitioner, the Court ought not to have closed *suo moto* the defence side evidence without giving fair opportunity to the accused person and therefore,



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an opportunity may be granted to the petitioner to let in defence side evidence.

8.The learned counsel for the petitioner had relied upon the decision of the Hon'ble Supreme Court reported in 2013 (14) SCC 461 (Rajaram Prasad Yadav Vs. State of Bihar and another) wherein in Paragraph No.23, the Hon'ble Supreme Court was pleased to summarize the principles touching upon Section 311 of Cr.P.C r/w Section 138 of Evidence Act. The learned counsel had relied emphasis upon Paragraph No.23(j) of the said judgment and contended that the trial cannot foreclose and the Court should permit proper evidence to be adduced and the Court should be magnanimous in permitting such mistakes, if it had happened.

9.Heard the learned counsel appearing for the petitioner and perused the material records.

10. As far as recalling PW1 is concerned, the first application filed by the petitioner was allowed on 06.07.2018 in CrI.M.P.No.4804 of 2018. PW1 was present between 16.07.2018 to 02.01.2019. However, cross examination was not conducted and hence, it was *suo moto* closed by the Court. The second application to recall PW1 was filed in CrI.M.P.No.1104 of 2024 and the same was dismissed by the trial Court. The petitioner challenged the said



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order in Crl.O.P.No.2936 of 2024 and this Court was pleased to dismiss the petition on the ground that the petitioner had failed to avail several opportunities afford by the trial Court.

11.In view of the above said decision, this Court is of the considered opinion that the petitioner cannot file repeated applications under Section 311 of Cr.P.C to recall PW1, even after dismissal of the same by this Court.

12.As far as seeking permission of the Court to let in defence side evidence is concerned, DW1 was chief and cross examined on 22.11.2023. For further witnesses on the side of the defence, it was adjourned to 28.11.2023. The petitioner had not produced the witnesses on the said date. Therefore, it was adjourned to 05.12.2023. Even on the said date, the petitioner has not produced any witness on his side and hence, it was *suo moto* closed on the said date and adjourned to 22.12.2023 for arguments.

13.Now it could be seen from the records, the arguments have been completed and it is posted for judgment.



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14. The present complaint is pending for the past 10 years. The petitioner was successful in dragging in the proceedings for the past 10 years and in such circumstances, the grievance expressed by the petitioner is not reasonable and the trial Court has rightly rejected the request for recalling PW1 and to let in evidence on the side of the defence.

15. In such view of the matter, there are no merits in the petition. This Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

11.08.2026

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
msa

To

The Judicial Magistrate No.II, Fast Track Judge (M.L) at Madurai



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R.VIJAYAKUMAR, J.

msa

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