



Crl.O.P.No.3632 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.3632 of 2025

and

Crl.M.P.No.2390 of 2025

J.Suresh Babu

... Petitioner

Vs.

A.Gunasekaran

.. Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order passed on 22.01.2025 in Crl.M.P.No.76431 of 2023 in S.T.C.No.5335 of 2023 pending before the learned XXVI Metropolitan Magistrate Court, Egmore, Chennai.

For Petitioner : Mr.K.Kathiresan

For Respondent : Mrs.A.Chitra

ORDER

This Criminal Original Petition has been filed to set aside the order dated 22.01.2025 in Crl.M.P. No. 76431 of 2023 in S.T.C. No. 5335 of 2023,



Crl.O.P.No.3632 of 2025

before the learned XXVI Metropolitan Magistrate Court, Egmore, Chennai,
thereby dismissing the petition filed by the petitioner to recall PW.1 for further
cross-examination by marking the document.

2. Heard the learned counsel for both sides and perused the materials
available on record.

3. The petitioner is an accused in the complaint lodged by the
respondent for the offence punishable under Section 138 of the Negotiable
Instruments Act in S.T.C. No. 5335 of 2023. The PW.1 was examined in chief
and on the same day, the petitioner had cross-examined PW.1. However, the
petitioner failed to mark the loan agreement between the respondent and the
petitioner's friend, in which the petitioner has been shown as a surety.
Therefore, the cheque, which was presented by the respondent for collection,
was issued only for security, and the petitioner never borrowed a loan from the
respondent. Hence, the said document is vital in nature, according to the
petitioner, and he wants to mark it through PW.1.

4. In view of the above, the order dated 22.01.2025 in Crl.M.P. No.
76431 of 2023 in S.T.C. No. 5335 of 2023, passed by the learned XXVI



Crl.O.P.No.3632 of 2025

Metropolitan Magistrate Court, Egmore, Chennai, is set aside. The Trial Court

is directed to fix a date for further cross-examination of PW.1 and mark the document through PW.1. If the petitioner fails to cross-examine PW.1 by marking any other documents, the Trial Court is directed to proceed with the trial in accordance with law.

5. With the above observations, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

24.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

kv

To

The XXVI Metropolitan Magistrate Court,
Egmore, Chennai.



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Crl.O.P.No.3632 of 2025

G.K.ILANTHIRAIYAN, J.

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Crl.O.P.No.3632 of 2025

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