



Crl.O.P.No.4303 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2025

CORAM:

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

Crl.O.P.No.4303 of 2025
and Crl.M.P.No.2712 of 2025

Velmurugan

... Petitioner

Vs

M.Uthiraraj

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023/Section 482 of Cr.P.C, to set aside the order dated 29.10.2024 made in C.M.P.No.2489 of 2024 in CC.No.349 of 2021 on the file of the Learned Judicial Magistrate-2, Pollachi.

For Petitioner : Mr.D.R.Arun Kumar

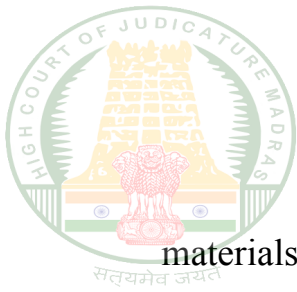
For Respondent : Notice served

No appearance

ORDER

This Criminal Original Petition has been filed challenging the order dated 29.10.2024 made in C.M.P.No.2489 of 2024 in CC.No.349 of 2021 on the file of the Learned Judicial Magistrate-2, Pollachi, thereby dismissing the application filed under Section 311 of Cr.P.C to recall PW1 for further cross examination.

2. Heard the learned counsel for the petitioner and perused the



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materials available on record. Though notice served on the respondent and the name has been printed in the cause list, today, no one appeared on behalf of the respondent before this Court in person or through pleader.

3. The petitioner is an accused in the complaint lodged by the respondent for the offences punishable under Section 138 of Negotiable Instruments Act in CC.No.349 of 2021 on the file of the Judicial Magistrate-2, Pollachi. Though PW1 was examined in chief, he was subsequently cross examined partly. At the request made by the petitioner, it was adjourned and the evidence of the PW1 was closed. Therefore, in order to complete the cross examination of PW1, the petitioner filed an application to recall PW1. However, it was dismissed, on the ground that PW1 was examined in full.

4. A perusal of the deposition of PW1, revealed that at the request made by the learned counsel for the petitioner for cross examination of PW1, it was adjourned to some other date. However, thereafter, PW1 was not cross examined in full.

5. In view of the above, the petitioner may be given one opportunity to put forth his defence by way of cross examination of PW1.



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6. In view of the above, the order made in C.M.P.No.2489 of 2024 in CC.No.349 of 2021 on the file of the Learned Judicial Magistrate-2, Pollachi, is hereby set aside. The petitioner shall pay a sum of Rs.2000/- as cost to PW1 for cross examination. The Trial Court is directed to fix a date for cross examination of PW1 and if the petitioner fails to cross examine PW1 on the date fixed by the Trial Court, the Trial Court is directed to proceed with the trial in accordance with law.

7. In the result, this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous petition is closed.

04.03.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
mn

G.K.ILANTHIRAIYAN. J.

mn



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To

1. The Judicial Magistrate-2, Pollachi.
2. The Public Prosecutor,
High Court, Madras.

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