



Crl.O.P.No.5246 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2025

CORAM:

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

Crl.O.P.No.5246 of 2025
and Crl.M.P.No.3386 of 2025

Chitra

... Petitioner

Vs

V.N.Baskarran

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to set aside the order passed by the Learned Judicial Magistrate No.II, Pollachi in Crl.M.P.No.7495 of 2024 dated 09.01.2025 in CC No.335 of 2021 and permit the petitioner to recall PW1 for cross examination.

For Petitioner : Mr.T.Dhasarathan

ORDER

This petition has been filed to set aside the order passed by the Learned Judicial Magistrate No.II, Pollachi in Crl.M.P.No.7495 of 2024 dated 09.01.2025 in CC No.335 of 2021, thereby allowed the application filed under Section 311 of Cr.P.C to recall PW1, on condition that the petitioner shall deposit a sum of Rs.75,000/- to the credit of CC No.335 of 2021.



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2. Heard the learned counsel for the petitioner and perused the materials placed on record.

3. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of NI Act. After examination of PW1 in chief, the petitioner failed to cross examine PW1. When the matter is posted for arguments, the petitioner filed an application under Section 311 of Cr.P.C to recall PW1 for cross examination. Though it was allowed by the Trial Court, the Trial Court imposed a condition to deposit a sum of Rs.75,000/-.

4. The Trial Court can pass order under Section 143(A) of Negotiable Instruments Act, thereby directing the accused to deposit 20% of the cheque amount for appearance of the accused. Now, the Trial Court had imposed a condition while allowing the application under Section 311 of Cr.P.C and it is not permissible under law. That apart, already the petitioner had partly cross examined PW1 and thereafter, failed to complete the cross examination.

5. In view of the above, it is not necessary to hear the respondent, since the petitioner challenged the order only insofar as the deposit of compensation alone. Therefore, without ordering notice to the respondent in



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order to save the time, insofar as the condition imposed to pay a sum of Rs.75,000/- alone cannot be sustained and is liable to be set aside. Accordingly, insofar as the condition imposed to pay a sum of Rs.75,000/- in Crl.M.P.No.7495 of 2024 dated 09.01.2025 in CC No.335 of 2021 on the file of the Judicial Magistrate No.II, Pollachi alone is hereby set aside. 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.

6. With the above directions, this Criminal Original Petition stands is allowed. Consequently, connected Miscellaneous petition is closed.

27.02.2025
(¹/₂)

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



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G.K.ILANTHIRAIYAN. J.

mn

To

1. The Judicial Magistrate No.II, Pollachi.
2. The Public Prosecutor,
High Court, Madras.

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