



Crl.O.P.No.7121 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2025

CORAM:

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

Crl.O.P.No.7121 of 2025
and Crl.M.P.No.4538 of 2025

Sekaraan

... Petitioner

Vs

E.N.Sudarsanam

... Respondents

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 Metropolitan Magistrate, Fast Track Court – II, Egmore at Allikulam, Chennai in Crl.MP.No.2761 of 2025 in S.T.C.No.8160 of 2024 dated 26.02.2025.

For Petitioner : Mr.K.Murugan

For Respondent : Mr.c.Sivanesan



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ORDER

This petition has been filed to set aside the order passed by the learned Metropolitan Magistrate, Fast Track Court – II, Egmore at Allikulam, Chennai in Crl.MP.No.2761 of 2025 in S.T.C.No.8160 of 2024 by order dated 26.02.2025, thereby dismissing the petition filed by the petitioner under Section 311 Cr.P.C to recall PW1.

2. The petitioner is an accused under Section 138 of Negotiable Instrument Act in S.T.C.No.8160 of 2024 on the file of Metropolitan Magistrate, Fast Track Court – II, Egmore at Allikulam, Chennai. On the side of the respondent, he has examined as P.W.1 and thereafter the case was posted on 03.02.2025 for cross examination of P.W.1, immediately the petitioner filed application to recall P.W.1 for further cross examination on the ground that the petitioner was served proof affidavit containing that the entire documents were not properly filed by the respondent and the respondent has not uploaded the entire pages of the proof affidavit and exhibits before the trial court and therefore, the petitioner did not complete the cross examination of P.W.1.



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3. Heard the learned counsel appearing on either side and perused the materials placed on record.

4. On perusal of the cross examination of P.W.1, the petitioner has cross examined P.W.1 to the extent of nearly 7 pages. That apart, the respondent has not served 3 pages of the proof affidavit to the petitioner which pertains to only the prayer portion. According to the petitioner, the respondent has not served the clean copy of the entire pages of the proof affidavit, hence the petitioner was not able to complete the cross examination of P.W.1 before the Trial Court.

5. It is seen that P.W1 was elaborately cross examined by the petitioner. So the stand taken by the petitioner that since the respondent did not furnish clean copy of the proof affidavit, the petitioner was not able to complete the cross examination of P.W.1 cannot be accepted. Hence, the Trial Court has rightly dismissed the petition under Section 311 of Cr.P.C. filed by the petitioner holding that the petitioner has filed this petition in order to fill the lacuna.



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G.K.ILANTHIRAIYAN. J.

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6. In view of the above, this petition stands dismissed. However, the learned Metropolitan Magistrate , East Track Court II, Egmore at Allikulam, Chennai is directed to proceed with trial and dispose the same within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

26.03.2025

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

The Metropolitan Magistrate,
Fast Track Court – II,
Egmore at Allikulam, Chennai.

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