



Crl. O.P. No. 7209 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl. O.P. No. 7209 of 2025

and

Crl. M.P. No. 4570 of 2025

S. Usha

... Petitioner

Vs.

G. Elangumaran

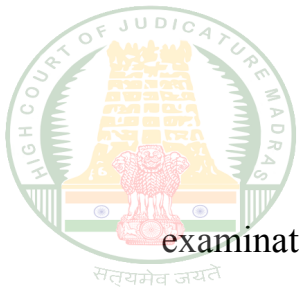
.. Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, to set aside the order passed in Crl. M.P. No. 7376 of 2024 in S.T.C.No.10485 of 2022 dated 25.02.2025 on the file of the XIX Metropolitan Magistrate, Egmore at Allikulam.

For Petitioner : Mr. Mohan Swaminathan
for Mr. T.K.S. Bharathy Anandraj
For Respondent : Mr. G. Magesh Kumar

ORDER

This Criminal Original Petition has been filed to set aside the order passed in Crl. M.P. No. 7376 of 2024 in S.T.C.No.10485 of 2022 dated 25.02.2025 on the file of the XIX Metropolitan Magistrate, Egmore at Allikulam, thereby dismissed the application filed to recall PW1 for cross



Crl. O.P. No. 7209 of 2025

examination.

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2. The petitioner is an accused in the complaint lodged by the respondent under Section 138 of Negotiable Instruments Act. In the main case, after defence witnesses, the petitioner filed application under Section 348 of CrPC to recall PW1 for further cross examination on the ground that the respondent newly introduced about the mediator about the cross examination. He only introduced the respondent to the accused. Therefore, the petitioner filed an application to summon the mediator as well as the witness. However, the said mediator died and as such, it was suppressed by the respondent in order to bring the said fact on light, the petitioner filed application to recall PW1 for further cross examination.

3. Learned counsel for the respondent submitted that already PW1 was fully cross examined by the petitioner and when the matter is posted for judgment, the petitioner filed application to recall PW1 and it is nothing but only to drag on the proceedings.



Crl. O.P. No. 7209 of 2025

4. In view of the change of circumstances, in order to give one more opportunity to the petitioner, this Court is inclined to allow the recall petition filed by the petitioner on payment of costs of Rs.5,000/- to the respondent.

5. Accordingly, the order passed in Crl.M.P.No.7376 of 2024 in S.T.C.No.10485 of 2022 dated 25.02.2025 on the file of the XIX Metropolitan Magistrate, Egmore at Allikulam is set aside on payment of costs of Rs.5,000/- to the respondent.

6. The trial Court is directed to fix the date for cross examination of PW1. 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. With the above observations, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

21.03.2025

Index : Yes/No
Neutral citation : Yes/No
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Crl. O.P. No. 7209 of 2025

G.K.ILANTHIRAIYAN, J.

AT

To
The XIX Metropolitan Magistrate, Egmore at Allikulam.

Crl. O.P. No. 7209 of 2025 and
Crl. M.P. No. 4570 of 2025

21.03.2025