



WEB COPY



Crl.O.P.No.16450 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.06.2025

Coram:

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

Crl.O.P.No.16450 of 2025 &
Crl.M.P.No.10294 of 2025

--

K.Vijayalakshmi

.. Petitioner

Vs.

Mrs.G.Ramadevi

.. Respondent

Criminal Original Petition filed under Section 528 of BNSS, to call for the records in Crl.M.P.No.579 of 2025 in C.C.No.68 of 2020 pending on the file of the Judicial Magistrate, Fast Track Court, (At Magestrial Level) Alandur and quash the same.

For petitioner : Mr.G.Selvi George



Crl.O.P.No.16450 of 2025

ORDER

WEB COPY

The present Criminal Original Petition has been filed by the petitioner/complainant, seeking to set aside the order dated 10.03.2025 passed by the learned Judicial Magistrate in Crl.M.P.No.579 of 2025 in C.C.No.68 of 2020, whereby the petition filed under Section 311 Cr.P.C. to recall and reopen the defence witness (DW1) for cross-examination was dismissed.

2. The petitioner is the complainant in a case instituted under Section 138 of the Negotiable Instruments Act. The accused, after entering appearance, was questioned and the matter proceeded to defence evidence. The accused examined herself as DW1 and filed a proof affidavit on 03.05.2024, marking one document. The matter was thereafter posted for cross-examination.

3. The grievance of the petitioner is that despite the case being posted for cross-examination on multiple occasions, the cross of DW1 could not be completed due to reasons beyond the complainant's control. On some occasions, the accused was absent. On several other dates, advocates were on boycott and court work was not functional. On a few other dates, the learned Magistrate was on earned leave. Additionally, the complainant was constrained to be absent on some dates due to her mother's ongoing cancer treatment.



Crl.O.P.No.16450 of 2025

WEB COPY

4. It is further contended that the learned Magistrate erred in holding that the complainant was attempting to drag the proceedings, whereas in fact, the record reflects that adjournments occurred primarily due to extraneous circumstances not attributable to the complainant. The complainant has always expressed readiness to proceed with the cross-examination whenever the court and counsel were available.

5. Upon consideration of the submissions made and the materials placed on record, it is seen that DW1 was examined in chief by way of a proof affidavit. Although the matter was posted on several occasions for cross-examination, the opportunity could not be effectively utilized by the petitioner due to circumstances beyond her control.

6. In the considered view of this Court, the right to cross-examine a witness, especially in a criminal case involving allegations under Section 138 of the N.I. Act, is a valuable safeguard and an essential part of fair trial. Denial of such opportunity would cause serious prejudice to the complainant's case. In the interest of justice, it is necessary that a final opportunity be granted to the complainant to cross-examine the defence witness. Hence, this Court is inclined to grant one final opportunity to the petitioner to cross-examine DW1, however, subject to the petitioner depositing a sum of Rs. 25,000/- (Rupees Twenty-Five Thousand only) to the credit of the Chief



Crl.O.P.No.16450 of 2025

Justice Relief Fund, Madras High Court, on or before 20.06.2025. Upon such deposit and production of the receipt before the trial Court, the learned Magistrate shall afford an opportunity to the petitioner to cross-examine DW1. The learned Magistrate is further directed to complete the trial in C.C.No.68 of 2020 as expeditiously as possible and in any event within a period of 30 days from the date of production of the receipt of payment.

7. With the above observations and directions, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

10.06.2025

r n s

Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No



Crl.O.P.No.16450 of 2025

WEB COPY To

The Judicial Magistrate, Fast Track Court,
(At Magestrial Level) Alandur.



WEB COPY



Crl.O.P.No.16450 of 2025

P.VELMURUGAN, J

r n s

Crl.O.P.No.16450 of 2025 &
Crl.M.P.No.10294 of 2025

10.06.2025