



Crl.O.P.No.19711 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.19711 of 2025

and

Crl.M.P.No.13574 of 2025

K.Kumar

... Petitioner

Vs.

R.Viswanathan

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 BNSS, 2023, to set aside the impugned order dated 03.06.2025 passed in Crl.M.P.No.39 of 2025 in S.T.C.No.34 of 2024 on the file of the Fast Track Judge (Magisterial Level) Tiruvallur and permit the petitioner to recall P.W.1 for cross examination.

For Petitioner : Mr.J.R.K.Bhavanantham

ORDER

The Criminal Original Petition is filed as against the impugned order dated 03.06.2025 passed in Crl.M.P.No.39 of 2025 in S.T.C. No.34 of 2024 on the file of the Judicial Magistrate, Fast Track Court at



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Magisterial Level, Tiruvallur and to permit the petitioner to recall P.W.1 for cross examination.

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

3. It is seen from the records that the petitioner/accused is facing trial in S.T.C.No.34 of 2024 on the file of the Fast Track Court (Magisterial Level) Tiruvallur. During trial, on the side of the prosecution, P.W.1 was examined-in-chief on 13.08.2024, but he was not cross-examined by the learned counsel for the petitioner/accused on the same day of examination. Thereafter, the case was adjourned to various dates i.e., on 21.08.2024, 05.09.2024, 18.09.2024, 30.09.2024, 23.10.2024, 21.11.2024 and 26.12.2024 for cross-examination of P.W.1 based on the request made by the petitioner/accused. However, he failed to cross-examine on 26.12.2024 and the evidence of P.W.1 was closed and subsequently, on 09.01.2025, the complainant's side evidence was closed. Thereafter, when the case was posted for questioning under Section 313 Cr.P.C., the petitioner has filed a petition in Crl.M.P.No.39



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of 2025 before the Judicial Magistrate, Fast Track Court at Magisterial

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Level, Tiruvallur, to re-call P.W.1 for cross examination. The learned Magistrate, *vide* order dated 03.06.2025, dismissed the petition on the ground that in spite of ample opportunities having been provided, the petitioner failed to make use of the same and filed the petition only with an intention to prolong the proceedings.

4. It is the contention of the learned counsel for the petitioner/accused that though settlement talks are going on between the petitioner/accused and respondent/accused, only under *bona fide* intention that matter could be settled amicably, the petitioner/accused was not cross examined P.W.1 and the petitioner has no intention to drag on the proceedings.

5. Considering the facts and circumstances of the case and also taking into account the submissions, this Court is of the view that though the complaint was filed under Section 138 of Negotiable Instruments Act, due to non co-operation of the petitioner/accused, the case is pending. However, in the interest of justice, the petitioner herein



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is hereby given one more opportunity to cross-examine P.W.1 on deposit of 15% of the cheque amount before the Court below. The petitioner shall deposit the said 15% of the cheque amount, to the credit of S.T.C.No.34 of 2024 before the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Tiruvallur, on or before 31.07.2025. On such deposit, the Court below is directed to issue summon to P.W.1 and fix a date for his appearance and record his evidence. The defence counsel is directed to cross-examine P.W.1 on the same day itself. Thereafter, the trial Court shall proceed with the case further in accordance with law. In default to deposit the said amount, this petition shall stand dismissed automatically without any further reference to this Court.

6. With the above directions, the Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

15.07.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

The Judicial Magistrate,
Fast Track Court at
Magisterial Level,
Tiruvallur.



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P.VELMURUGAN, J

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