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CRL OP No. 22391 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-08-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 22391 of 2025 & CrI.M.P.No.15285 of 2025

1. M/s Sri Vinayaga Star Electricals
No.9, Raja Garden, Chettiyar Agaram,
Chennai-600 077 Rep by its Propr
C.Petharaj S/o. Sindhamani Naadar

Petitioner(s)

Vs

1. M/s. Raj Bros Agencies (India)
G-1, Anugraha Buildings, No.56,
Singanna Chetty Street, Chindadripet,
Chennai-600 002 Represented by its
Partner D.Vishal Kumar S/o. Late
Dharam Kumar

Respondent(s)

PRAYER Criminal Original Petition filed under section 528 of BNSS to pass an order to set aside the order passed in CrI.M.P.No.10230 in C.C.No.3217 of 2019 dated 25.07.2025 on the file of the Learned XXVI Metropolitan Magistrate Court, Chennai and passes further suitable orders and thus render Justice.



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For Petitioner(s): M/s.K.Sivakumar

For Respondent: Mr.R.Vinodhraj,
Government Advocate [Crl.Side]

ORDER

Challenge has been made to the Order of the trial Court dismissing the petition filed by the petitioner to recall P.W.1, in the present Criminal Original Petition.

2. The petitioner is facing trial in C.C.No.3217 of 2019 on the file of the XXVI Metropolitan Magistrate, Egmore Chennai. In the said case, cross examination of the all the witness is over. Thereafter, it appears that an exparte decree has been obtained in a civil suit against the petitioner. At this stage a petition has been filed to cross examine P.W.1 with regard to the said exparte decree and judgment. The trial Court has dismissed the petition on the ground that if at all the petitioner is aggrieved over the said Order, the petitioner has to file an application to set aside the exparte decree passed in the above suit.

Challenging the same the present Criminal Original Petition has been filed.



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3. I have perused entire materials. As a matter of right one cannot be permitted to recall a witness for cross examination, when there is no relevancy at all. Admittedly an exparte decree has been passed by a Civil Court and it has not been set aside. Such decree operates against the parties, as long as the decree and judgement has not been set aside and the petitioner cannot seek to cross examine the witness with regard to the above said exparte decree. Hence, I do not find any merits in this petition.

4. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petition is closed.

12-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

vrc

To

The XXVI Metropolitan Magistrate,
Chennai.



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N.SATHISH KUMAR J.

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