



Crl.OP.No.30638 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2025

CORAM:

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.OP.No.30638 of 2025

and

Crl.MP.No.20977 of 2025

R.Premkumar

...Petitioner

Vs.

V.K.Periyasamy

...Respondent

Criminal Original Petition filed under Section 528 of BNSS, 2023, to set aside the order passed by the learned FTC Poonamallee in Crl.MP.No.2906 of 2025 in STC.No.144 of 2017 dated 30.09.2025.

For Petitioner : Mr.S.Arumugam

ORDER

This criminal original petition has been filed seeking quashment of the order dated 30.09.2025 passed by the learned Judicial Magistrate, Fast Track Court, Poonamallee in Crl.MP.No.2906 of 2025 in STC.No.144 of 2017.



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2. The case of the petitioner is that the respondent/complainant filed a complaint against the petitioner for the offences under Sections 138 and 142(2)(a) of the Negotiable Instruments Act, 1881 in STC.No.144 of 2017 before the trial court. The petitioner filed a petition under Section 311 of Cr.P.C. in CrI.MP.No.2906 of 2025 in STC.No.144 of 2017, seeking to recall PW1 for cross-examination and the learned Judicial Magistrate, Fast Track Court, Poonamallee, vide impugned order dated 30.09.2025 dismissed the said petition on the ground that, without utilising the earlier opportunities given by the trial court to the petitioner/accused for cross-examining the complainant/PW1, the petitioner filed the present recall petition for the third time only to drag on the proceedings. Challenging the same, the present petition has been filed.

3. Learned counsel for the petitioner submitted that the petitioner has certain valid questions to be put to the respondent/complainant in order to prove his innocence and to substantiate his case, enabling the trial court to arrive at a just and proper decision. However, the trial Court, without considering the necessity for the same, dismissed the present recall petition



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filed by the petitioner under Section 311 Cr.P.C, which is not sustainable. He further submitted that if the petitioner is not permitted to recall PW1 for cross-examination, he would be put to grave hardship. Hence, he prayed to set aside the impugned dismissal order dated 30.09.2025.

4. This Court gave its careful consideration to the arguments advanced by the learned counsel for the petitioner and also perused the materials available on record.

5. The facts are not in dispute. On a perusal of the order impugned, it is evident that the complaint is of the year 2017 and the respondent/complainant was examined in chief as early as on 20.02.2018 and as the petitioner/accused did not come forward to cross-examine the complainant, the cross-examination was closed on 20.02.2018 and the matter was posted for questioning under Section 313 of Cr.P.C. and thereafter, for defence side evidence, at which stages, the petitioner did not take any steps to recall PW1. In such circumstances, on 08.06.2018, the petitioner/accused filed a recall petition under Section 311 of Cr.P.C and though the same was allowed and the matter was posted for cross-examination of PW1 on several



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occasions, the petitioner had miserably failed to utilise the same and did not cross-examine the respondent/complainant for about five years and thereafter, the matter was posted for arguments on several occasions, at which point also, the petitioner had not come forward to cross-examine the respondent/complainant. While such being the case, after a lapse of about six years, the petitioner/accused filed another recall petition on 25.09.2023 and though the same was also allowed on the same date with costs of Rs.500/- payable to the witness and the matter was once again posted for cross-examination on various occasions, the petitioner had not come forward to cross-examine the respondent/complainant and thereby, the matter was posted for arguments.

6. While such being the case, once again, the petitioner filed the present recall petition at the fag end of the trial and the said act of the petitioner is nothing but a clear act of dragging on the proceedings. Hence, the trial court, holding that the present recall petition has been filed by the petitioner only to fill up the lacuna and to drag on the proceedings, had dismissed the same, vide impugned order dated 30.09.2025, and this Court



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does not find any fault with the said order of the trial court and accordingly,
this Court is not inclined to interfere with the same.

7. For the reasons aforesaid, this criminal original petition stands
dismissed. Consequently, the connected miscellaneous petition is closed.

10.11.2025

skt

Index	: Yes/No
Speaking order	: Yes/No
NCC	: Yes/No

To:

1. The Judicial Magistrate,
Fast Track Court, Poonamallee.

2. The Public Prosecutor,
Madras High Court.



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