



WEB COPY

CRL OP No. 32493 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-11-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

**CRL OP Nos.32493 and 32495 of 2025 and
Crl.M.P.Nos.22570 and 22573 of 2025**

Vijayalakshmi

Petitioner in both cases

Vs

Jagathambal

Respondent in both cases

Common Prayer: These Criminal Original Petitions filed under Section 528 BNSS, 2023, to call for the records relating to the order dated 01.09.2025 passed in Crl.MP.Nos.164 & 165 of 2025 in STC No.56 of 2019 on the file of the learned Judicial Magistrate (FTC), Dharmapuri and set aside the same.

For Petitioner
in both cases:

Ms.R.Saritha

COMMON ORDER

These Criminal Original Petitions are filed to call for the records relating to the orders passed in Crl.M.P.Nos.164 & 165 of 2025 in STC No.56 of 2019, dated 01.09.2025 on the file of the learned Judicial Magistrate (FTC), Dharmapuri and to set aside the same.



2. It is the case of the petitioner that P.W.1 was not fully cross examined earlier and therefore, the petitioner had filed applications seeking to recall P.W.1 and cross-examine him. However, they have been dismissed and aggrieved by the same, the present petitions have been filed.

3. The learned counsel for the petitioner submitted that cross-examination of P.W.1 is very much essential for arriving at a just decision whereas the trial Court has dismissed the applications without application of mind.

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

5. For the sake of ready reference, paragraphs 5 and 6 of the order of the learned trial Judge are extracted hereunder.

“5. On further perusal of records, it is seen that PW1 was examined in chief on 05.12.2019 and PW1 was cross examined in part on 21.07.2022 and the matter was posted for cross examination of PW1 after giving sufficient opportunity PW1 was not cross examined so PW1 Cross was closed on 17.10.2022 and the matter was posted for further PW's then PW2 was examined in chief on 14.11.2022 and the matter was posted for cross of PW2 in this stage Crmp 4338/2022 was filed to recall PW1 and the same was allowed with cost of Rs.1000 the said cost was paid and the



petition was allowed even after Crmp 4338/2022 PW1 was not cross examined so PW1 and PW2 cross was closed on 22.11.2023 on the same day complainant side evidence was closed in view of endorsement made by the complainant counsel and the matter was posted for 313(1) questioning then the matter was posted for DW's on 28.02.2024 then DW's not adduced so DW's was closed on 12.06.2024.

6. On further perusal of records it is seen that the matter was posted for arguments on 19.06.2024 at the stage of arguments Crmp 1959/2024 was filed to recall PW2 for cross examination then PW2 was cross examined in part on 18.12.2024 and for cross continuation of PW2 the matter was pending from 08.01.2025 to 07.07.2025 on 07.07.2025 PW2 present before the Court but counsel sought time to cross PW2 so cost was imposed by this court the said cost was not paid and PW2 was not cross examined fully and the matter is pending to cross PW2 at this stage the petitioner came up with this present petition to reopen PW1 so the present reopen petition is not maintainable”.

6. It is seen that the case is a private complaint for offence under Section 138 of the Negotiable Instruments Act and the same has been pending from the year 2019. Admittedly, P.W.1 has been repeatedly recalled and cross-examined. From the records, it is seen that the case has been earlier posted for arguments on 19.06.2024. At this juncture, the petitioner had filed applications to recall P.W.2 and now the present petitions have been filed to recall P.W.1. In the opinion of this Court, this is nothing but an attempt to protract the proceedings.



7. In view of the above, this Court does not find any infirmity in the orders passed by the learned trial Judge in dismissing the petitions. Accordingly, these Criminal Original Petitions stand dismissed. Consequently connected miscellaneous petitions are closed.

28-11-2025

vum

Index:Yes/No

Speaking/Non-speaking order

To

The learned Judicial Magistrate (FTC),
Dharmapuri



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A.D.JAGADISH CHANDIRA J.

vum

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(1/2)