



Crl.OP.No.34085 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2025

CORAM:

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

Crl.OP.No.34085 of 2025

and

Crl.MP.No.23831 of 2025

L.Thangasamy

...Petitioner

Vs.

S.Alamelu

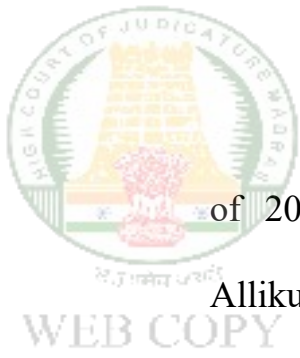
...Respondent

Criminal Original Petition filed under Section 528 of BNSS, 2023 to set aside the said order dated 31.10.2025 in Crl.MP.No.1410 of 2025 in STC.No.11511 of 2025 on the file of the file of the learned XIX Metropolitan Magistrate, Egmore at Allikulam, Chennai and allow the petition filed by the petitioner under section 311 of Cr.P.C., to recall the P.W.1 for cross examination in accordance with law.

For Petitioner : Mr.R.Dhanasekar

ORDER

This criminal original petition has been filed seeking quashment of the order dated 31.10.2025 passed in Crl.MP.No.1410 of 2025 in STC.No.11511



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of 2025 on the file of the XIX Metropolitan Magistrate, Egmore at Allikulam, Chennai.

2. The brief facts are as follows:

The petitioner is an accused facing trial in STC.No.11511 of 2025 for the offence under Section 138 of the Negotiable Instruments Act, 1881 before the trial court, pursuant to the complaint lodged by the respondent/complainant. The petitioner filed a petition under Section 311 of Cr.P.C./348 of BNSS in CrI.MP.No.1410 of 2025, seeking to recall P.W.1 for cross-examination. However, the trial court, vide impugned order dated 31.10.2025, dismissed the said petition on the ground that the same has been filed only to drag on the proceedings. Challenging the same, the present petition has been filed.

3. Learned counsel for the petitioner submitted that the respondent/complainant is none other than the friend of the petitioner's wife and that the petitioner's wife had repaid the disputed amount to the respondent/complainant and as no questions with regard to the said repayment were put to P.W.1 at the time of cross-examination, the petitioner filed the present



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petition under Section 311 of Cr.P.C., seeking to recall P.W.1 for further cross-examination, as the same is absolutely necessary, in order to enable the trial court to arrive at a just and reasonable decision. However, the trial Court, without considering any of the above said facts, had dismissed the petition under Section 311 Cr.P.C. which is not sustainable. He also submitted that if the petitioner is not permitted to recall P.W.1 for further cross-examination, he would be put to grave hardship. Hence, he prayed to set aside the impugned order dated 31.10.2025.

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

5. The facts are not in dispute. For better appreciation, the relevant portion of the impugned order is extracted hereunder:

**“3. POINT FOR CONSIDERATION:
WHETHER THE PETITION FILED BY THE
PETITIONER/ACCUSED U/S 311 OF THE CODE IS TO
BE ALLOWED OR NOT?”**

a) Records perused. Heard Both. This petition is filed by the petitioner/accused to recall PW1 to cross examine as this petitioner/accused had deposed in his evidence about the



payment made by his wife to this respondent/complainant and about the transactions between his wife and the petitioner/complainant and about the issuance of cheque and so prays to allow this petition. The same was objected by respondent/complainant that she is a senior citizen and that already she was cross examined and so prays to dismiss this petition.

b) With aforestated contentions of either sides, it is seen that this petition was filed when the case was posted for arguments. The reason stated for recall of PWI was that this petitioner/accused had deposed about the transactions of his wife with respondent/complainant and about issuance of cheques and payment made by his wife to respondent/complainant which itself not acceptable. Because, if petitioner/accused had deposed so, he has prove his contention of payment made by his wife and her transactions when he had adduced evidence. Further, when this very same petitioner/accused had stated that his wife had made payment of Rs.35,000/- through bank transfer in his reply notice itself, it is for him to prove the same by producing necessary documents. Moreover, it is seen that this respondent/complainant was also cross examined on the said transactions made by his wife to respondent/complainant which was denied by respondent/complainant in her cross. And without examining his wife in whose personal knowledge the transactions are there, this petition filed to recall PWI to prove the payment made by his wife is nothing but to drag the proceedings. Thus, when PWI was already subjected to cross-examination on aspect mentioned in the petition, this petition cannot be allowed.

c) Hence this court considers that there is no merits in this petition and accordingly this petition is dismissed. There shall be no order towards costs.

(Emphasis supplied by this Court)



6. On a perusal of the order impugned, it is seen that though the present recall petition has been filed by the petitioner solely on the ground that certain amounts have been repaid by the petitioner's wife to the respondent/complainant and the said aspect was not put as question at the time of cross-examination of P.W.1, however, it is pertinent to note that the said claim of the petitioner was already put as question to P.W.1/complainant and she has specifically denied the same. Further, the petitioner had failed to produce the necessary documents to prove the alleged repayment of Rs.35,000/- made by his wife, even though the same was said to be made through bank transfer and this Court is unable to understand as to what prevented the petitioner from producing the said documents before the trial court. Further, as rightly held by the trial court, without examining his wife in whose personal knowledge the transactions are said to have been made, filing the present petition seeking to recall P.W.I to prove the payment made by his wife when the matter is posted for arguments is nothing but a tactic adopted by the petitioner to protract the proceedings.

7. Other than the stereotyped stance taken by the defence in the petitions filed under Section 311 of Cr.P.C. to the effect that the respondent/



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complainant could not be properly cross-examined on the day she was examined in chief, no other valid reason has been assigned by the petitioner.

8. In view of the above, this Court is of the view that the trial court had rightly dismissed the recall petition filed by the petitioner and hence, no interference is warranted in the impugned dismissal order.

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

15.12.2025

skt

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

To:

The XIX Metropolitan Magistrate,
Egmore at Allikulam, Chennai.

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A.D.JAGADISH CHANDIRA, J.

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