



Crl.O.P.No.33138 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2025

CORAM:

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

Crl.O.P.No.33138 of 2025
and Crl.M.P.No.23143 of 2025

R.Damodaran

... Petitioner

Vs.

S.Hemalatha
(Represented by Power of Attorney,
V.Subbrayalu)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita/Section 482 of Cr.P.C., to set aside the order made in Crl.M.P.No.4 of 2025 in C.C.No.5542 of 2015 dated 10.11.2025 on the file of the XXVII Metropolitan Magistrate, Saidapet.

For Petitioner : Mr.G.Palanikumar

ORDER

The present Criminal Original Petition has been filed seeking to set aside the order passed by the learned XXVII Metropolitan Magistrate, Saidapet, dated 10.11.2025, in Crl.M.P.No.4 of 2025 in C.C.No.5542 of 2015.

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2. The brief facts of the case are as follows:-

2.1. The petitioner is an accused facing trial in C.C.No.5542 of 2015, pending on the file of the learned XXVII Metropolitan Magistrate, Saidapet, for the offence under Section 138 of the Negotiable Instruments Act, 1881.

2.2. The petitioner/accused filed a petition in CrI.M.P.No.4 of 2025 in C.C.No.5542 of 2015, under Section 254(2) of Cr.P.C., seeking to summon the respondent/complainant and to examine her as a defence witness.

2.3. The respondent/complainant filed a counter contending that one V. Subbrayalu, the husband of the respondent/complainant, was given a Power of Attorney and since he was well aware of the alleged transactions, it was not necessary to examine her. The trial Court, noting that the husband of the respondent/complainant, who was given the Power of Attorney, had filed the complaint and was examined in chief on 18.02.2020 and cross-examined on 26.05.2023, during which he stated that he was aware of the case details, dismissed the petition, vide order dated 10.11.2025, holding that there was no necessity to examine the complainant as a defence witness. Challenging the same, the present petition has been filed.



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3. Learned counsel appearing for the petitioner submitted that it is necessary to examine the complainant to arrive at a just decision in the case and that if the petitioner is not given an opportunity to rebut the presumption against him by examining the complainant as a defence witness, he would be put to great hardship. However, the learned Magistrate, without application of mind, erred in dismissing the petition under Section 254(2) of Cr.P.C. Hence, he prayed to set aside the impugned order dated 10.11.2025

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

5. It is seen from the records that the complaint was filed through the Power of Attorney holder, namely the husband of the respondent/complainant and that he was extensively cross-examined as PW1 by the petitioner on 26.05.2023. During such examination, PW1 deposed that he was fully aware of the transaction and the facts of the case. It is not the case of the petitioner that PW1 was not cross-examined. When PW1 has candidly deposed that he is thorough with the facts of the case, it is beyond the ken of this Court as to why the petitioner wants to examine the

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complainant (PW1's wife). Except a stereotyped stand that if the complainant is not cross-examined, the petitioner will be put to a great hardship, no reason much less any convincing reason has been assigned for the need to examine the complainant (PW1's wife).

6. In view of the above, this Court is of the view that the trial Court has rightly taken note of the above aspects and finding that the examination of the complainant is not necessary, dismissed the petition. Therefore, this Court does not find any infirmity in the order passed by the trial Court.

7. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is also closed.

04.12.2025

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Neutral Citation: Yes/No

To
The XXVII Metropolitan Magistrate,
Saidapet, Chennai.



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A.D.JAGADISH CHANDIRA, J.

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