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Crl.O.P.No.34142 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2025

CORAM:

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

Crl.O.P.No.34142 of 2025

M.Dharani Dharan

... Petitioner

Vs.

1. SBS Traders,
Represented by its Sole Proprietor,
S.Bharani Dharan,
No.31, Kailasanathar Kovil Street,
Periay Natham, Chengalpattu,
Chengalpattu District – 603 002.

2. S.Bharani Dharan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 483(1)(b) of Bharatiya Nagarik Suraksha Sanhita, to set aside the dismissal order passed by the learned Metropolitan Magistrate, Fast Track Court – IV, George Town, Chennai – 1, in S.R.No.96 of 2023 in Crl.M.P.No.595 of 2023 dated 22.07.2024 in un numbered private complaint filed against the respondents for the offence under Section 138 of the Negotiable Instruments Act.

For Petitioner : Mr.Perumbulavil

ORDER

The present Criminal Original Petition has been filed seeking to set aside the dismissal order passed by the learned Metropolitan Magistrate,
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Fast Track Court – IV, George Town, Chennai, in S.R.No.96 of 2023 in
CrI.M.P.No.595 of 2023 dated 22.07.2024.

2. The submissions of the learned counsel for the petitioner are as follows:-

2.1. The petitioner filed a complaint against the respondents for the offence under Section 138 of the Negotiable Instruments Act on 06.02.2023 and the same was taken up on file as S.R.No.96 of 2023.

2.2. The petitioner filed a petition in CrI.M.P.No.595 of 2023 seeking condonation of delay. Since the respondent did not appear, he was set *ex-parte* and the case was reserved for orders on 12.04.2023 and that the said petition was allowed on 07.06.2023. Thereafter, the case was adjourned to 03.07.2023 for filing proof affidavit and all original documents were annexed.

2.3. Subsequently, the case was periodically adjourned on several occasions and as the petitioner was taking care of his ailing father, he was unable to appear before the court. Consequently, on 22.07.2024, the petition came to be dismissed for non-prosecution.

2.4. The learned trial Judge did not consider whether the presence of the petitioner was required on the said date or whether any procedural step had been taken and without out application of mind, the



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petition was dismissed by a rubber stamp order. Hence, he prayed to set aside the impugned order dated 22.07.2024.

3. The order under challenge is between the Court and the petitioner. Therefore, notice to the respondents is dispensed with.

4. The scanned copy of the dismissal order is reproduced hereunder:-

Returned :	
Date :	<u>22/07/2024</u>
SR No. :	<u>96/2008</u> MP No. : <u>595/2003</u>
Complainant called absent, No Representation.	
Pending for more than 3 years. Affidavit not filed,	
original documents not produced.	
Hence returned, <u>Dismissed as non</u>	
<u>prosecution</u>	
FTCTV MM	

5. Having heard the learned counsel appearing for the petitioner and upon perusal of the materials available on record, this Court finds that the learned trial Judge has not applied his mind before dismissing the

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petition for non-prosecution by a rubber stamp order dated 22.07.2024.

Therefore, this Court is inclined to set aside the said order.

6. Accordingly, the order passed by the learned Metropolitan Magistrate, Fast Track Court – IV, George Town, Chennai, in S.R.No.96 of 2023 in CrI.M.P.No.595 of 2023, dated 22.07.2024, is set aside. The learned Magistrate is directed to afford one opportunity to the petitioner. The petitioner shall appear before the trial Court **on or before 09.01.2026** and upon such appearance, the petition shall stand restored.

7. With the above directions, this Criminal Original Petition stands allowed.

17.12.2025

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Neutral Citation: Yes/No

Note: Issue order copy by 02.01.2026

To

The Metropolitan Magistrate,
Fast Track Court – IV,
George Town, Chennai – 1.



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A.D.JAGADISH CHANDIRA, J.

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