



Crl.OP(MD)No.11879 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Crl.OP(MD)No.11879 of 2025
and
Crl.MP(MD)No.9098 of 2025

Chandrasekhar : Petitioner

Vs.

Prabhu : Respondent

PRAYER: Petition filed under Section 528 BNSS as against the order dated 24.01.2025 made in Crl.MP.No.1553 of 2025 in CC.No.298 of 2015 on the file of the Judicial Magistrate Court No.II, Trichy.

For Petitioner : Mr.B.Jameel Arasu

ORDER

The petitioner is an accused in CC.No.298 of 2015 on the file of the learned Judicial Magistrate No.II, Trichy. The said complaint was lodged as against the petitioner for the offence u/s.138 of the Negotiable Instruments



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Act. He has filed an application u/s.311 CrPC to recall and re-examine PW1 in Crl.MP.No.1553 of 2025. It was dismissed by the trial Court, by order dated 24.01.2025, that the petitioner has filed the application at the stage of defence. Aggrieved over the same, the petitioner has moved this petition.

2.The respondent has instituted this complaint in CC.No.298 of 2015 as against the petitioner in the year 2015. It appears that the learned Magistrate has rejected the application filed by the petitioner u/s.311 CrPC without even mentioning as to when the PW1 was examined in chief. From the order impugned, this Court is not able to understand the date in which PW1 was examined and the reason for filing this application u/s.311 CrPC. This Court expresses its concern to the trial Court for having passed the order without even referring to the basic details.

3.The petitioner has also not furnished the details in this petition as to the date on which PW1 was examined and the reasons for the delay in examining the witness, in a case of the year 2015, in the year 2025. Therefore, this Court was about to dismiss this petition for having filed it



with bereft of material particulars. At this juncture, the petitioner's Counsel

has produced a proceedings dated 23.08.2024 of CC.No.298 of 2015 and its

contents are extracted as under:-

“Complainant present. Accused called absent u/s.317 PFA. Sufficient opportunities is given to the accused to fresh stay order. No stay order furnished details of appeal on revision is not furnished. Hence this court proceeds with this case PW1 examined and EX.P5 marked. Complainant side evidence is closed, for 313 questioning. Call on 27.08.2024”

4.From the available materials, this Court could infer that PW1 was examined in chief on 23.08.2024, in the absence of the accused. But, this Court is not in a position to find out the reason for not concluding the trial of the year 2015 till date. From the proceeding, it appears that there was some interim order either in an appeal or revision as against the impugned proceedings and by referring the same, the petitioner appears to have dragged on the proceedings. But, he has failed to furnish the extension of interim order copy and therefore, the trial Court proceeded and examined the witness on 27.08.2024.

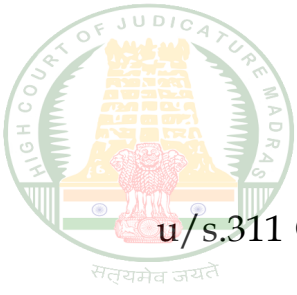


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5. Though the petitioner was not present on 23.08.2024, he must be represented by a Counsel, who could have raised an objection for examining PW1 or could have cross examined the witness. It is not known as to what transpired that day. Given the available materials, this Court is unable to find fault with the trial Court in examining the PW1 on 23.08.2024, when it is an old case and in the absence of any interim order. Even in this petition, the petitioner has not averred any reasons for recalling the witness. For the slackness of the petitioner, this Court is not inclined to entertain this application.

6. At the same time, this Court is not losing sight of the fact that every person accused of a crime has a right to defend himself before he is punished for the same. The process of cross examination is an essential tool available to the accused to put forth his side in the trial.

7. In such view of the matter, this criminal original petition stands dismissed. However, the petitioner is at liberty to file a fresh application



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u/s.311 CrPC for recalling PW1, assigning proper reasons, if so advised. In

the event if any application is filed, the trial Court has to take a decision, independently, either to allow the application or reject the application. The trial Court is also expected to give priority to old year cases and dispose of the same.

Consequently, connected miscellaneous petition is closed.

Internet : Yes
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18.07.2025

To

The Judicial Magistrate No.II,
Trichy.



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B.PUGALENDHI, J.

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