



WEB COPY

CRL RC No. 106 of 2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-01-2026

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CRL RC No. 106 of 2026

Jothiganesan

Petitioner(s)

Vs

Jegathambal

Respondent(s)

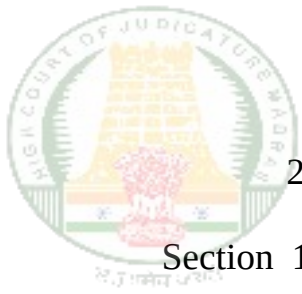
PRAYER

To set aside the order dated 03.11.2025 passed in Crl.MP.No.5 of 2025 in C.C.No.78 of 2018 on the file of the learned Judicial Magistrate Court, Rasipuram, Namakkal, and discharge the petitioner by allowing the above Criminal Revision.

For Petitioner(s): Mr. J.Titus Enock

ORDER

This petition has been filed challenging the order passed in Crl.M.P.No.5 of 2025 in C.C.No.78 of 2018, by which the learned Magistrate dismissed the petitioner's application filed under Section 245 of the Cr.P.C.



2. The petitioner is the accused in a private complaint filed under Section 138 of the Negotiable Instruments Act. The petitioner had filed an application under Section 245 of Cr.P.C. contending that the statutory notice issued by the respondent does not satisfy the requirements of Section 138 of the Negotiable Instruments Act and that, since two notices were issued, and hence no valid cause of action had arisen for maintaining the complaint.

3. The learned Magistrate dismissed the said application holding that the validity of the statutory notice can be examined only during the course of trial and that the petitioner had not made out any ground for interference at that stage.

4. The learned counsel for the petitioner submitted that the sole contention raised before the Trial Court was that the respondent had failed to issue a valid statutory notice as contemplated under Section 138 of the Negotiable Instruments Act and, therefore, the complaint itself is not maintainable.

5. This Court is of the view that the petition filed by the petitioner before the Trial Court under Section 245 of Cr.P.C. is not maintainable. The petitioner, being an accused in a private complaint, cannot maintain a discharge petition. Even assuming that such a petition is maintainable, the same ought to



have been treated as an application for recall of summons. This Court finds that the learned Magistrate was justified in dismissing the application, as the issues raised by the petitioner cannot be adjudicated at this stage. It is open to the petitioner to establish during the trial that the statutory notice issued by the respondent does not fulfil the requirements of law. Therefore, this Court finds no infirmity in the order passed by the Trial Court.

6. Accordingly, the Criminal Revision Case stands dismissed.

22-01-2026

skr

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

1. Learned Judicial Magistrate Court, Rasipuram, Namakkal.
2. Learned Public Prosecutor, Madras High Court, Chennai.



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SUNDER MOHAN J.
skr

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