



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-02-2026

CORAM

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

CRL OP No. 4809 of 2026

Ajay Padayyapan Sethupathyar
S/o C. Ayyadurai,
Proprietor,
M/s. Sri Lakshmi Balaji Jewellery and Bullion,
Residing at, No.12,
Kotturpuram Link Road,
Kotturpuram,
Chennai - 600 025.

..Petitioner

Vs

Mohanlal Jewellers Pvt. Ltd.
Rep by Gopal Vyas,
Manager of Account and Finance,
Old No.121, N.S.C. Bose Road,
Sowcarpet, Chennai - 600 001.

..Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in Crl. M.P. No.842 of 2026 in STC No.7794 of 2024, dated 11.02.2026 passed by the learned XXV Metropolitan Magistrate, Egmore, Chennai and set aside the same.

For Petitioner : Mr.Avinash Wadhwani
for Mr.J.Manikandan

ORDER

The present Criminal Original Petition has been filed to set aside the order dated 11.02.2026 passed in Crl. M.P. No.842 of 2026 in STC No.7794 of



2024, by the learned XXV Metropolitan Magistrate, Egmore, Chennai.

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2. The learned counsel appearing for the petitioner submitted that upon careful screening of the oral and documentary evidence at the stage of final arguments, certain vital and material aspects came to light which went to the very root of the prosecution case, particularly, concerning the existence of legally enforceable debt or liability and hence, the petitioner had filed a petition in CrI.M.P.No.842 of 2026 under Section 311 of Cr.P.C. seeking to recall P.W-1 for the purpose of further examination. The said petition was dismissed by order dated 11.02.2026 challenging which this Criminal Original Petition is filed.

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

4. At the outset, it is apt to extract the findings of the learned trial Judge while dismissing the petition which are as follows:

"6(v). On perusal of records, the case was filed by the Respondent/Complainant against the accused for commission of alleged offence u/s. 138 of N.I. Act. The case is pending for accused side argument. At this juncture the petitioner filed this petition to recall PW1. In this case on 05.04.2025 the Respondent/Complainant was examined as PW1 and marked Ex.P1 to P12 and the case was adjourned for PW1 cross examination on 22.05.2025, 05.06.2025, 13.06.2026 and 30.06.2026. On 30.06.2025 PW1 evidence was closed and posted for defence side



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evidence. It is further evident that after that on 08.07.2025 the Petitioner/Accused reported no defence evidence and recorded and the case was adjourned for both side arguments on 17.07.2025.

6(vi). On 17.07.2025 the Petitioner/Accused filed petition u/s. 311 of Cr.P.C. to recall the PW1 for the purpose of cross-examination on the petitioner side and this same was allowed upon the Respondent/Complainant reported no counter and the case adjourned 02.08.2025 for PW1 cross-examination. After that the case was adjourned for three hearing 08.08.2025, 14.08.2025 and 02.09.2025 for the purpose of cross-examination. But, the Petitioner/Accused is not ready to cross exam the PW1 and this court is closed PW1 evidence and adjourned for defence evidence on 15.09.2025. On 15.09.2025 the Respondent/Complainant filed Memo stating that the name of the accused and address of the accused changed and to be recorded and ordered to amend the complaint and the same day the accused side is reported no defence evidence and the case was adjourned on 30.09.2025 and then the case adjourned for amendment, carryout amendment and APC for few hearing and then the case was posted for u/s. 313 (1) (b) of Cr.P.C. questioning on 07.11.2025 and 13.11.2025, u/s.313 (1) (b) of Cr.P.C. questioning was heard on 13.11.2025 and the case was adjourned defence witness on 20.11.2025, 06.12.2025 and 12.12.2025 and then 12.12.2025 defence evidence once again closed by this court suomotto and the case was posted for arguments on 19.12.2025 and 03.01.2026. On 03.01.2026 the Respondent/Complainant side arguments heard and filed written argument on behalf of the Respondent/Complainant. At this juncture once again, the Petitioner/Accused came up along with u/s. 145(2) of N.I Act and r/w 311 of Cr.P.C petition for recalling the PW1 for the purpose of cross examination and the same was numbered on 28.01.2026. (Emphasis supplied by this Court)

6(vii). On perusal of the above proceeding it is evident that the Petitioner/Accused with intention to drag on the proceedings for filing similar petition without any valid reasons and could not utilize opportunity granted by this court."

5. From the above order, it is very clear that the petition in

CrI.M.P.No.842 of 2026 under Section 311 Cr.P.C. has been filed only to



protract the proceedings. The petitioner has already filed a petition seeking to recall the witness and the same was allowed. Despite that, the petitioner did not take steps to cross-examine the witness. The trial Court rightly finding that the petition was filed only for the purpose of protracting the proceedings, had dismissed the said petition. This Court does not find any infirmity or error in the order passed by the learned trial Judge warranting interference. Therefore, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

6. Before parting, this Court deems it fit to observe that proceedings under Section 138 of the Negotiable Instruments Act is summary trial in nature and that Section 143 of the Negotiable Instruments Act, 1881 mandates that the trial has to be completed within a period of six months. Therefore, the trial Judge shall dispose of the case in S.T.C.No.7794 of 2024, as expeditiously as possible, by following the mandate under Section 143(3) of the Negotiable Instruments Act, 1881.

26-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

The XXV Metropolitan Magistrate,
Egmore, Chennai.



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A.D.JAGADISH CHANDIRA, J.

SRM

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