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CRL OP No. 5090 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 05-03-2026**

CORAM

**THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR**

**CRL OP No. 5090 of 2026**

**AND**

**CRL MP NO. 3799 OF 2026**

G.Lakshmi  
Wife of Gunasekaran,  
Id No.55, Kavery Street,  
Gandhi Nagar Main Road,  
Guindy, Chennai-600 032.

Petitioner(s)

Vs

S.Radha  
Wife of K.Srinivasan,  
No.25/14, 5th Pillayar Kovil Street,  
Ekkattuthangal, Chennai-600 032.

Respondent(s)

**CRL MP No. 3799 of 2026**

1. G.Lakshmi  
Wife of Gunasekaran, Old No.55,  
Kavery Street, Gandhi Nagar Main  
Road, Guindy, Chennai-600 032.

Petitioner(s)

Vs

1. S.Radha  
Wife of K.Srinivasan, No.25/14, 5th  
Pillayar Kovil Street, Ekkattuthangal,  
Chennai-600 032.



CRL OP No. 5090 of 2026

Respondent(s)

**PRAYER:** The Criminal Original Petition filed under Section 528 of BNSS, 2023, praying to set aside the Docket Order dated 28.01.2026 passed by the XXVII Metropolitan Magistrate Court, Saidapet, Chennai in Crl.M.P.No.19 of 2026 in S.T.C.No.2277 of 2023.

For Petitioner(s): Mr.A.Allen Savio

For Respondent:

### **ORDER**

The Criminal Original Petition has been filed seeking to set aside the Docket Order dated 28.01.2026 passed by the learned XXVII Metropolitan Magistrate, Saidapet, Chennai in Crl.M.P.No.19 of 2026 in S.T.C.No.2277 of 2023.

2.The contention of the petitioner is that the petitioner is running a tiffin shop in the respondent's premises. Due to the relationship as a tenant and landlord, the respondent borrowed a sum of Rs.5,00,000/- on various dates and the respondent failed to repay the same. After repeated demands, the respondent issued a cheque for Rs.5,00,000/-, which was presented and got dishonoured. Thereafter, following the procedure, statutory notice issued. The respondent received the notice and sent a reply denying the same. Hence, complaint lodged against the respondent for offence under Section 138 of the Negotiable



Instruments Act and the same was taken cognizance as S.T.C.No.2277 of 2023 before the learned XXVII Metropolitan Magistrate Court, Saidapet, Chennai and the trial was at the final stage. This being so, the respondent filed a petition under Section 348 of BNSS to recall the case before pronouncing the judgment and permit the respondent to advance oral and written arguments. The trial Court allowed the petition on 28.01.2026, against which, the present petition is filed.

3.Considering the submissions made and on perusal of the material, it is seen that the petitioner as complainant filed a private complaint under Section 138 of the N.I. Act against the respondent in S.T.C.No.2277 of 2023, which is at the final stage. At that stage, the respondent/accused filed a petition under Section 348 of BNSS, which is akin to Section 311 of Cr.P.C. This petition was filed to recall the case from the judgment stage and permit the respondent/accused to advance oral and written arguments and the said petition was allowed on 28.01.2026. Section 348 of BNSS does not contemplate such relief. It states about the power of Court to summon any person, examine any person in attendance (even if not summoned), or recall/re-examine witnesses already examined, meaning that in case of examination of witness either for continuation of cross-examination or further examination of witnesses can be



CRL OP No. 5090 of 2026

considered and not to recall the case from the judgment stage. The order passed by the trial Court is beyond the scope of the Section 348 of BNSS and beyond its power. Hence, the impugned order passed by the trial Court is to be set aside as perverse.

4.It is submitted that now the case has been reopened and posted for arguments. In view of the same, the impugned order dated 28.01.2026 passed by the learned XXVII Metropolitan Magistrate Court, Saidapet, Chennai in CrI.M.P.No.19 of 2026 in S.T.C.No.2277 of 2023 is set aside. The trial Court is permitted either to hear the arguments of the respondent/accused or receive the written submissions from the petitioner and respondent, if filed before the date of judgment and to render a judgment without any further delay on the date so fixed.

5.With the above directions, the Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

05-03-2026

Index : Yes/No

Speaking order/Non-speaking order

Neutral citation : Yes/No

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**Note: Issue order copy on 06.03.2026**



CRL OP No. 5090 of 2026

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The XXVII Metropolitan Magistrate Court,  
Saidapet, Chennai.



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**M.NIRMAL KUMAR, J.**

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CRL MP NO. 3799 OF 2026**

**05.03.2026**