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Crl.O.P. No. 6709 of 2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-03-2026

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 6709 of 2026

Aruna
W/o.Manikandan, No.192,School
Street, Mittamandagapattu,
Villupuram Taluk.

Petitioner(s)

Vs

Jaya Sri
W/o.Rajesh, No.1/182,Bank Street,
Mittamandagapattu, Villupuram Taluk.

Respondent(s)

PRAYER

Criminal Original Petition filed under Section 528 of BNSS to call for the records pertaining to Cr.M.P.No. 9/2026 in S.T.C.No. 398/2022 on the file of the Learned Judicial Magistrate No.II, Villupuram and set aside the order dated 30.01.2026.

For Petitioner(s): Mr. K.R.Samratt

ORDER

The criminal original petition is filed to set aside the order dated 30.01.2026 passed in Cr.M.P.No. 9/2026 in S.T.C.No. 398/2022 by the learned



Judicial Magistrate No.II, Villupuram.

2. The petitioner and the respondent are relatives. Following the dishonour of a cheque issued by the petitioner towards alleged discharge of liability of a sum of Rs.29,50,000/-, the respondent herein filed a complaint against the petitioner under Section 138 of Negotiable Instruments Act and the same is pending in S.T.C. No. 398 of 2022 on the file of the learned Judicial Magistrate No.II, Villupuram. During the course of trial, the respondent was examined as P.W.1 on 30.07.2025 and Exs. P1 to P4 were marked. Since the petitioner was not represented on the said date, the cross-examination of P.W.1 was closed and immediately thereafter, on 02.01.2026, defence side evidence was closed and the case was posted for arguments on 06.01.2026. On 28.01.2026, the petitioner filed a petition under Section 145(2) of Negotiable Instruments Act seeking permission to recall and cross-examine the complainant, whose proof affidavit was already received in advance. The Trial Court, by the order under challenge, dismissed the same, on the ground that it was filed at a belated stage. Hence, the above criminal original petition.

3. The contention of the petitioner is that to effectively present her defence and to test the veracity of the statements made by the respondent in her proof affidavit, she needs to cross-examine the respondent. Further, the petitioner would state that the cross-examination of the respondent is necessary to establish her defence regarding the misuse of the blank cheque



and the absence of a legally enforceable debt.

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

5. It is seen that the petitioner and the respondent are relatives. Neither in the complaint nor during chief examination, there are any particulars with regard to the lending of loan of a sum of Rs.29,50,000/-. The defence of the petitioner is that earlier, the respondent/complainant was running a Self Help Group and at that time, the transaction had taken place. Later, since the petitioner and the respondent fell apart due to family property dispute, the cheque was filled up, misused and projected as though it was issued by the petitioner towards discharge of liability.

6. The wherewithal of the respondent to lend such a huge amount as loan needs to be questioned. Since the petitioner has necessarily dislodged the statutory presumption, the petitioner has to cross-examine the complainant and probabalise her defence. In this case, it is seen that the respondent has not been cross-examined so far. The evidence is complete only after the evidence of the witness passes the test of cross-examination.

7. In view of the same, this Court is inclined to set aside the order under challenge. Accordingly, the order under challenge is set aside and the criminal original petition is allowed. The petitioner is permitted to recall and cross-examine the respondent/complainant on 24.03.2026, on which date the



Crl.O.P. No. 6709 of 2026



M. NIRMAL KUMAR,J.

nv

case is posted or when the complainant appears before the Trial Court and the petitioner shall cross-examine the witness without seeking any adjournment. The Trial Court shall proceed with the case thereafter.

16-03-2026

Neutral Citation:Yes/No

nv

(Note to Office: Issue order copy on 23.03.2026)

To

1. The Judicial Magistrate No.II,
Villupuram.
2. Jaya Sri
W/o.Rajesh, No.1/182,Bank Street,
Mittamandagapattu, Villupuram Taluk.

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