



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-03-2026

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 6597 of 2026

AND

**CRL OP NO. 6771 OF 2026, CRL MP NO. 4941 OF 2026, CRL MP NO. 4849
OF 2026**

1. Karpagam
W/o.Vivakar, New No.16, Lod No.35,
Seenivaasa Reddy Street, Thiyagaraya
Nagar, Chennai-600017.

Petitioner(s)

Vs

1. C.M.Babu
S/o.Mr.C.Munirathinam, New No.42,
Old No.34, Selavinayagar Kovil Street,
Perambur, Chennai-600 011. Rep by his
Power of Attorney, Mr.S.Prabhu.

Respondent(s)

CRL OP No. 6771 of 2026

1. D.Vivakar
S/o Durai Viswa Baji, New No.16, Lod
No.35, Seenivaasa Reddy Street,
Thiyagaraya Nagar, Chennai.

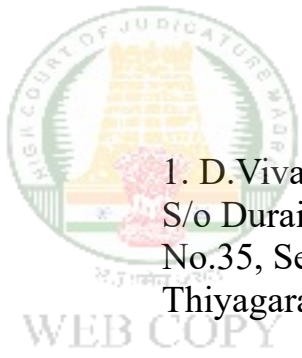
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Perambur, Chennai. Rep by his power
of attorney, S.Prabhu.

Respondent(s)

CRL MP No. 4941 of 2026



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Respondent(s)

CRL MP No. 4849 of 2026

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Seenivaasa Reddy Street, Thiyagaraya
Nagar, Chennai-600017.

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Respondent(s)

CRL OP No. 6597 of 2026

PRAYER

To set aside the order in Honble XXXIV Metropolitan Magistrate (Fast Track Court-I), Egmore at Allikulam, Chennai in CrI.MP.No.578 of 2026 in STC No.8315 of 2024 dated 24.02.2026 and to pass an order allowing this criminal original petition.

CRL OP No. 6771 of 2026

PRAYER

To set aside the order Honourable XXXIV Metropolitan Magistrate (Fast Track Court - I) Egmore at Allikulam, Chennai in CrI.MP.No.577 of 2026 in STC.No.8317 of 2024 dated 24.02.2026 and to pass an order allowing this Criminal Original Petition.



CRL MP No. 4941 of 2026

PRAYER

To Stay all the further proceedings in the above case in STC.No.8317 of 2024 on the file of Honourable XXXIV Metropolitan Magistrate (Fast Track Court-I), Egmore at Allikulam, Chennai till the disposal of the Original Petition.

CRL MP No. 4849 of 2026

PRAYER

To stay all the further proceedings in the above case in STC No.8315 of 2024 on the file of Honble XXXIV Metropolitan Magistrate (Fast Track Court-I) Egmore at Allikulam, Chennai, till the disposal of the original petition and may pass any suitable order in the nature and circumstances of the case.

In both cases

For Petitioner(s): M/s.X. Selvam Sounder

For Respondent(s): R.Ganesh Kumar-MS/1387/1998

Mr.Leonard Arul Joseph Selvam
Additional Public Prosecutor

COMMON ORDER

Crl.O.P.No.6771 of 2026 has been filed by one D.Vivakar, who is the accused, who is facing trial for the offence punishable under Section 138 of the Negotiable Instrument Act, filed by the respondent in S.T.C.No.8317 of 2024 on the file of the Fast Tract Court No.I, (Magisterial Level) Egmore at Allikulam, Chennai.

2.Crl.O.P.No.6597 of 2026 has been filed by one Karpagam, who is the accused, who is facing trial for the offence punishable under Section 138 of the Negotiable Instrument Act, filed by the respondent in S.T.C.No.8315 of 2024 on the file of the Fast Tract Court No.I, (Magisterial Level) Egmore at Allikulam, Chennai.



3. Both the petitioners are husband and wife. The respondent in both the cases is one and the same. Both the petitioners filed separate petition under Section 348 of BNSS, 2023, in Crl.M.P.No.577 of 2026 and Crl.M.P.No.578 of 2026, seeking to reopen and recall PW1 for further cross examination.

4. The Trial Court, by separate order dated 24.02.2026, dismissed both Crl.M.P.No.577 of 2026 and Crl.M.P.No.578 of 2026. Since the petitioners intended to mark the whatsapp screen shot dated 30.01.2024, wherein, according to the petitioners the respondent – complainant had agreed to receive a sum of Rs.15,00,000/- in total from 12.02.2024 to 28.05.2024. This vital act has not been put to the complainant or to the defence witness. Hence, the petitioners herein filed Crl.M.P.No.577 of 2026 and Crl.M.P.No.578 of 2026. But the Trial Court has not considered the same and dismissed both the petitions. Against which the present petitions.

5. The learned counsel for the respondent had filed counter affidavit and submitted that the complainant was examined as PW1 and cross examination of PW1 was completed on 08.04.2025. Thereafter, the case was posted to 24.04.2025 for 313 Cr.PC. After denial of questioning by the accused side, the matter is posted for further proceedings on 20.05.2025. Thereafter, the case was posted for recording of the defence evidence by the petitioner on 20.05.2025, 26.05.2025 and to 09.06.2025 and on various hearing dates. On that dates, the



petitioners had filed petition under Section 353 of BNSS for permitting the petitioners to lead defence side evidence and it was allowed on 23.06.2025.

Thereafter on 14.07.2025, the accused had again requested for adjournment to 22.07.2025. Thereafter, the case was posted on 01.08.2025. After sufficient opportunities, the accused side had not examined any witnesses and closed the defence side evidence and posted the matter for arguments on 07.08.2025. Now, it is submitted that the case is posted for judgment on 30.03.2026.

6.Learned counsel for the respondent further submitted that petitioner / accused / DW1 did not appear before the Court on 08.10.2025, 23.10.2025, 04.11.2025 and on 11.12.2025. He further submits that the petitioners are adopting dilatory tactics only to protract the proceedings. He further submitted that the Trial Court had rightly dismissed both the petitions and prays for dismissal of both the cases.

7.Learned counsel for the petitioners, on instructions, submitted that petitioner in S.T.C.No.8315 of 2024 and the petitioner in S.T.C.No.8317 of 2024 will appear before the Fast Tract Court No.I, (Magisterial Level) Egmore at Allikulam, Chennai, on 30.03.2026 without fail. On that day, the left out materials can be marked through them and they will also appear themselves for cross examination. At this stage, learned counsel for the respondent replied that the petitioners can cross examine the respondent/PW1 without any delay and



thereafter, the Trial Court to dispose of the case on its own merits.

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8. In view of the above undertaking, this Court is inclined to give one more opportunity to the petitioner to cross examine the respondent/PW1 for the reason that the petitioners are facing prosecution under Section 138 of Negotiable Instruments Act, 1881 wherein the statutory presumption starred at them and it is their duty to probablize the defence.

9. Accordingly, the impugned orders dated 24.02.2026 in CrI.M.P.Nos.577 & 578 of 2026 in S.T.C.Nos.8317 & 8315 of 2024 passed by the XXXIV Metropolitan Magistrate, Fast Tract Court No.I, (Magisterial Level) Egmore at Allikulam, Chennai are set aside. The respondent/PW1/complainant is directed to appear before the trial Court on 30.03.2026. On that day itself, the petitioners to cross examine the respondent/PW1 without seeking any adjournment.

10. With the above directions, both the Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

26-03-2026

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

NOTE: Issue order copy on 27.03.2026.



To

1.C.M.Babu

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Old No.34, Selavinayagar Kovil Street,
Perambur, Chennai-600 011. Rep by his
Power of Attorney, Mr.S.Prabhu.

2.The XXXIV Metropolitan Magistrate
(Fast Track Court - I) Egmore at
Allikulam, Chennai.

3.The Public Prosecutor,
High Court of Madras, Chennai.



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M.NIRMAL KUMAR J.

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