



WEB COPY

CRL OP No. 6208 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-03-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 6208 of 2026
and Crl.M.P.No.4592 of 2026

Rabindra Abraham

..Petitioners

Vs

S.Thambaiyah Pillai

..Respondent

PRAYER: The Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records relating to the proceedings of the order in M.P.No.2 of 2026 in STC.No.256 of 2018 on the file of the District Munsif-cum-Judicial Magistrate, Kattumannarkoil, Cuddalore District and set aside the same.

For Petitioner : Mr. K. Rishi Adhithya

ORDER

The petitioner, who is an accused facing trial in a case under Section 138 of the Negotiable Instruments Act, 1881, had filed a petition to examine himself as defence witness which the trial Court had dismissed by order dated 18.02.2026 in M.P.No.2 of 2026 in STC.No.256 of 2018. Challenging the same, the present Criminal Original Petition is filed seeking to set aside the order dated 18.02.2026 in M.P.No.2 of 2026 in STC.No.256 of 2018 on the file of the District Munsif-cum-Judicial Magistrate, Kattumannarkoil, Cuddalore



District.

2. The learned counsel for the petitioner submitted that the complainant is the owner of the property measuring 2520 sq. ft. of land together with building in Plot No.35, comprised in Old Survey No.248/1, T.S.No.37, Block No.13, Ward No.H, Old Survey No.284/1A1A1 part, R.P.T./8A No.1148/16 situate at Balaji Nagar 2nd Street, Kilkattalai Village, Pallavaram Taluk, Kancheepuram District who appointed one Surender son of Suresh as his power of attorney. The transaction was only between the complainant and the power of attorney. The petitioner herein is only an agent. However, to prove the transaction, the petitioner filed a petition to recall P.W-1 but the same was dismissed. Challenging the same, the present Criminal Original Petition was filed.

3. Heard the learned counsel for the petitioner and perused the order dated 18.02.2026 passed in M.P.No.2 of 2026 in STC.No.256 of 2018 by the learned District Munsif-cum-Judicial Magistrate, Kattumannarkoil, Cuddalore District.

4. On a perusal of the trial Court order, it is seen that the case has been filed in the year 2018 and the complainant has been examined himself as P.W-1 and through him Ex.P-1 to Ex.P-6 have been marked on 08.12.2022.



Thereafter, the case was adjourned for cross-examination of P.W-1. Since P.W-1 was not cross-examined despite sufficient opportunity, the cross-examination was closed on 10.02.2023. Further, the complainant side evidence was closed on 30.06.2023 and the case was adjourned for examination of petitioner under Section 313 of Cr.P.C. Later, the petitioner had absconded and therefore, a bailable warrant has been issued on 25.08.2023. Thereafter, on 31.10.2023 a petition under Section 311 of Cr.P.C. was filed to recall P.W-1 for cross-examination and cross-examined on 04.12.2023. Again a petition was filed on 08.12.2023 to recall P.W-1 and it was also allowed and P.W-1 was cross-examined in detail on 25.07.2025 and on 08.08.2025. The case was kept for further cross continuation and the same was finally closed on 21.11.2025. Thereafter, the case was posted for defence evidence for several hearings and the same was closed on 06.02.2025. At that stage, the present petition to recall P.W-1 was filed.

5. Considering the above facts, it is seen that the case is of the year 2018 and the petitioner had been successfully dragging on the proceedings and by his own conduct, he had delayed the cross-examination despite the trial Court had given several opportunity to the petitioner to recall P.W-1 which has been done in detail on several dates. Now, at this stage, filing the present petition to recall P.W-1 is nothing but protracting the proceedings further. Therefore, the trial Court had rightly rejected the request of the petitioner.



Hence, this Court is not inclined to interfere with the order passed by the trial Court. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petition is closed.

11-03-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

SRM

To

The District Munsif-cum-Judicial Magistrate,
Kattumannarkoil,
Cuddalore.



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M.NIRMAL KUMAR, J.

SRM

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