



Crl.O.P. No. 10957 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2026

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl.O.P. No. 10957 of 2026

&

Crl.M.P. No. 7743 of 2026

K. Dhanalakshmi

..Petitioner

Vs.

B. Moorthy

..Respondent

Prayer: Criminal Original Petition filed under Section 528 of BNSS to call for the records on the file of the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Coonoor, pertaining to C.M.P. No. 83 of 2026 in STC No. 75 of 2023 and set aside the impugned order dated 07.03.2026 passed therein.

For Petitioner

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Mr.J. Ashok



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Crl.O.P. No. 10957 of 2026

ORDER

The petitioner/accused facing trial in STC No. 75 of 2023 for the offence under Section 138 of Negotiable Instruments Act, has filed the present criminal original petition questioning the order dated 07.03.2026 passed by the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Coonoor, allowing C.M.P. No. 83 of 2026 filed by the respondent herein to recall PW1 for the purpose of marking certain documents listed in the petition.

2. Learned counsel for the petitioner submitted that in this case, the respondent/complainant was examined in chief and he was cross-examined in detail. During cross-examination, the respondent had produced copies of returned cover of two statutory notices, one with the endorsement 'No such Address' and the other with the endorsement 'Insufficient Address'. Hence, there was no ambiguity with regard to the steps taken to serve the statutory notice. After conclusion of his cross-examination, the petitioner's cross-examination was concluded on 21.01.2026 and the matter



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Crl.O.P. No. 10957 of 2026

was posted for judgment on 10.02.2026. The petitioner filed her written arguments. At this stage, the respondent filed the petition under Section 311 Cr.P.C. to recall P.W.1 stating that though legal notices sent to two known addresses of the petitioner/accused, the acknowledgement card or returned postal cover in respect of the notice sent to Mukhatty Village, Ketti Post, Coonoor, The Nilgiris, was not received; when the respondent requested the Sub Post Master, Yellanalli on 09.09.2025 through a registered letter to know about the fate of the legal notice sent to the said address, by reply dated 10.09.2025, the respondent was informed that the notice was returned to the sender as “ Unclaimed”; as the postal receipt, acknowledgement card and reply sent by Sub Post Master were misplaced and could be traced only later, they need to be marked as they are important documents to substantiate his case. According to the learned counsel for the petitioner, filing of petition under Section 311 Cr.P.C. when the matter was posted for judgment is only a ruse on the part of the respondent to fill up the lacuna. Further, the Trial Court had observed that the documents sought to be marked are public



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Crl.O.P. No. 10957 of 2026

documents. However, according to the learned counsel for the petitioner, it is not so. Hence, the present quash application.

3. It is brought to the notice of this Court that the case has been posted for judgment on 06.05.2026.

4. Considered the submissions made by the learned counsel for the petitioner.

5. It is the complainant, who had filed the petition under Section 311 Cr.P.C. to further examine himself and to mark certain documents, namely postal receipts and also to project that the statutory notice was returned “unclaimed”. The nature of the documents sought to be marked are claimed to be public documents, which is opposed by the petitioner. It is basic principle in criminal law that the best available evidence has to be produced. That being so, in the case on hand, the respondent cannot be deprived of bringing in the best available evidence on a technical ground.



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Crl.O.P. No. 10957 of 2026

6. In view of the same, the petitioner's contention is untenable and the order under challenge is sustained.

7. The Trial Court is permitted to recall P.W.1 and further examine and mark the documents subject to its proof, admissibility and also after hearing the objections of the petitioner.

8. The criminal original petition is dismissed with the above direction. Connected miscellaneous petition is closed.

29.04.2026

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To

The Judicial Magistrate,
Fast Track Court at Magisterial Level,
Coonoor.

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Crl.O.P. No. 10957 of 2026

M. NIRMAL KUMAR,J.

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Crl.O.P. No. 10957 of 2026

29.04.2026