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CRL OP No. 8219 of 2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-04-2026

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 8219 of 2026

AND

CRL MP NO. 5819 OF 2026

Mrs. Fathima Zohara

Petitioner

Vs

Mrs. P. Leelavathy

Respondent

PRAYER

This criminal original petition is preferred under section 528 of BNSS seeking to call for the records in Crl M.P. No.17317 of 2025 in S.T.C. No.8335 of 2024 on the file of the XXVI Metropolitan Magistrate, Egmore, Chennai, set aside the impugned common order dated 18.03.2026 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner: Mr.M.S. Niranjhan

For Respondent: Mr.K.Venkateswaran

ORDER

The petitioner who is facing trial for the offence under section 138 of the Negotiable Instruments Act, 1881 in S.T.C.No.8335 of 2024 has filed a petition



before the XXVI Metropolitan Magistrate, Egmore, Chennai to recall the evidence of P.W.1 for further cross examination which came to be dismissed by the trial court vide order dated 18.03.2026, against which the present criminal original petition has been filed under section 528 of BNSS.

2.The contention of the learned counsel for the petitioner is that initially, a complaint was filed before the Fast Track Court, Magistrate Level against the petitioner herein on 28.08.2024 and thereafter, on administrative ground, the case was transferred to the file of XXVI Metropolitan Magistrate, Egmore, Chennai. A bailable warrant was issued against the petitioner on 18.11.2024 and thereafter, non bailable warrant was issued. On 05.03.2025, the petitioner had appeared before the trial court and the warrant was recalled and on the same day, the petitioner was questioned. The respondent/complainant was examined as P.W.1 and proof affidavit was filed. Exs.P.1 to P.5 documents were marked. The case was posted for defence side evidence on 27.03.2025 and thereafter, for cross of P.W.1, the case was adjourned for several hearings. Finally, the complainant was cross examined on 07.11.2025 and on that day, a memo has been filed to settle the issue with the complainant. The evidence was closed and the case was posted for questioning the petitioner under section 313 of Cr.P.C or settlement and the court adjourned the case to 13.11.2025. On 20.11.2025, the case was adjourned to 24.11.2025 for cross of P.W.1 and on 24.11.2025, the complainant was present, but the accused was absent and as the cross of P.W.1



had already been completed, the case was adjourned to 28.11.2025 for questioning under section 313 Cr.P.C. Thereafter, on 26.12.2025, the complainant was present and that a petition under section 145(2) of the Negotiable Instruments Act and section 348 of the BNSS has been filed and that the case has been posted to 02.01.2026 and finally, the impugned order came to be passed on 18.03.2026.

3.The learned counsel for the petitioner submitted that the cross examination of complainant P.W.1 could not be completed and the petitioner had sought for some more time but the trial court without considering the same had closed the evidence of P.W.1. The learned counsel further referring to the adjudication submitted that only on 07.11.2025, the original documents of Exs.P.1 to P.5 were produced and that the petitioner was not given sufficient time even to peruse those documents and hence, the veracity of the same could not be questioned. Therefore, the denial of right to cross examine the witness is not proper. Hence, the present original petition has been filed.

4.The counsel for the respondent submitted that the petitioner has been furnished all documents along with the complaint. The petitioner had not appeared before the trial court despite service of summons and the petitioner was delaying the process of trial. Finding that the petitioner had been evading the summons, bailable warrant was issued on 30.01.2025. Thereafter, on 05.03.2025, the petitioner appeared and the warrant was recalled and on the



same day, the petitioner was questioned and thereafter, the complainant P.W.1 was examined and documents Exs.P.1 to P.5 were marked. In this case, the documents marked were the cheques, return memo, statutory notice, postal return cover and bank statement of the complainant to confirm that the petitioner had received money through NEFT transfer, i.e., Rs.50,000/- on 08.08.2023 and another Rs.50,000/- on 09.08.2023 and thereafter, some more money has been borrowed by the petitioner. The respondent / complainant had given a tabulation in the proof affidavit showing that the petitioner is liable to pay a sum of Rs.1,17,675/- and that in discharge of the said liability, the petitioner had given a post dated cheque for a sum of Rs.93,000/- which got dishonoured and thereafter, the complaint came to be filed. Though the proof affidavit was taken on file on 05.03.2025 but the accused had not cross examined the witness immediately. The P.W.1 was cross examined on 07.11.2025. On the same day, a memo was filed on behalf of the accused, stating that the accused is willing to pay a sum of Rs.75,000/- within next ten days or in alternate, the cheque amount in 10 equated monthly instalments of Rs.9300/- each, but she has not acted as per the memo. The learned counsel has further submitted that another memo has been filed on 13.11.2025 seeking to refer the matter to the Lok Adalat to enable the parties to enter into a comprehensive memorandum of compromise but the petitioner failed. Referring to the cross examination of P.W.1, the learned counsel submitted that the



complainant had clearly reiterated the amount given to the petitioner and hence, a detailed cross examination has been conducted. The respondent has admitted that she approached the petitioner through one Sasikala and with regard to said Sasikala, no questions have been put. It is not in dispute that the respondent has approached the petitioner through Sasikala and it is also not in dispute that the respondent has transferred the amount through NEFT transactions and the same has not been denied or questioned. As regards, the writings in the cheque, the respondent has clearly given evidence. Therefore, the present petition is nothing but to protract the proceedings and to further delaying the process of trial and hence, the learned counsel prayed for dismissal of the present petition.

5. This court heard the submissions made by both sides and has perused the documents available on record. It is seen that in the impugned order, the examination of the respondent complainant as witness, marking of documents and cross examination by the petitioner all have been clearly recorded. Further, it is seen from the records that from 09.04.2025, the case has been kept pending for cross examination of respondent by the petitioner and finally, on 07.11.2025, the cross examination was conducted and on that day, the original records were also produced. When the petitioner had requested for continuation of cross examination, the trial court had advised the petitioner to complete the cross examination on the same day itself but the counsel for the petitioner has informed the court to conclude the cross examination and therefore, the cross



examination was concluded and on his request, it has been recorded in the evidence that the request was made by the petitioner to continue the cross examination and the same has been denied and that it has been recorded in the deposition.

6.It is to be noted that on 07.11.2025, the petitioner has filed a memo informing that the cheque amount can be settled and hence, the case was adjourned to another day. Since the petitioner has come forward to settle the matter, the case was kept pending without any progress. Later, on request made by the petitioner, the matter was referred to Lok Adalat to enable the parties to enter into a comprehensive memorandum of compromise. But no settlement has been arrived at. Therefore, it is clearly seen that the petitioner has been adopting a dilatory tactics by filing one petition or another and memo to the effect that she is willing to settle the issue and to pay the cheque amount, but actually, she has not come forward to settle the same. On the other hand, she took the stand that she has to further cross examine the P.W.1. The trial court has recorded all these facts and has rightly dismissed the petition by way of the impugned order.

7.In the light of all the above, it is clear that the petitioner is attempting to protract the proceedings and thus indulging in dilatory tactics. From the materials available, it is clear that the petitioner has received the money from the respondent through NEFT transactions and there is no dispute with regard to the same. Therefore, it is evident that the petitioner though says that she intends



to settle the amount, but has not taken any concrete steps for settlement. On the contrary, the petitioner now wants to recall the witness for cross examination thereby protracting the proceedings. The conduct of the petitioner is clearly dilatory in nature and though sufficient opportunities were granted to the petitioner to even settle the issue at her request, the petitioner has not taken any steps to settle the amount and all these clearly shows the conduct of the petitioner that she is trying to prolong the case on hand and therefore, it cannot be entertained in the present original petition. In view of the above, the impugned order does not warrant any interference. This criminal original petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07-04-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To

XXVI Metropolitan Magistrate,
Egmore, Chennai.



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M.NIRMAL KUMAR J.

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