



WEB COPY

CRL OP No. 14848 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 14848 of 2026

M. Saravanan

..Petitioner(s)

Vs

S. Murugesan

..Respondent(s)

To Set aside the returned Docket Order passed in Unnumbered MP in C.A. No.111 of 2025 dated 07-03-2026 on the file of Honorable Second Additional District Judge, Tiruchengode and pass such other or further orders as may be deemed necessary and fit in the circumstances of the case and thus render justice.

For Petitioner(s): M/s. S. Lakshmipathy

ORDER

This Criminal Original Petition has been filed seeking a direction to set aside the Docket Order of return passed in unnumbered M.P. in C.A. No.111 of 2025 dated 07.03.2026 on the file of the Second Additional District Judge, Tiruchengode.

2. The petitioner was prosecuted for an offence under Section 138 of the Negotiable Instruments Act. Upon conclusion of trial, the Trial Court found him

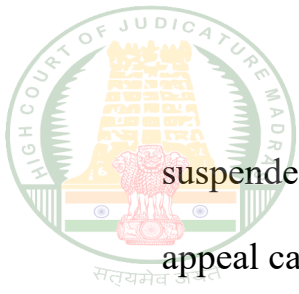


guilty and sentenced him to undergo one year simple imprisonment and further directed him to pay the cheque amount as compensation. Aggrieved by the judgment of conviction and sentence, the petitioner preferred an appeal in CA.No.111 of 2025 before the Lower Appellate Court. Pending appeal, the sentence was suspended and the petitioner has been regularly appeared before the Court.

3. It is the case of the petitioner that due to a miscommunication, he could not appear before the Lower Appellate Court on 09.12.2025. Consequently, the appeal came to be dismissed for non-prosecution on the said date. Thereafter, the petitioner filed a petition on 05.03.2026 seeking restoration of the appeal. However, the said petition was returned by the Lower Appellate Court on the ground that “There is no provision for Sessions Court to restore the Criminal Appeal itself. Hence returned”. Challenging the said return, the present petition has been filed.

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

5. It is seen that the petitioner, who is the accused in a case under Section 138 of the Negotiable Instruments Act, was convicted by the Trial Court. He thereafter preferred a statutory appeal and the sentence imposed upon him was



suspended pending disposal of the appeal. Owing to his non-appearance, the appeal came to be dismissed for the non prosecution on 09.12.2025.

WEB COPY

6. The appeal preferred by the petitioner is a statutory appeal, which ought to be decided on merits after affording an opportunity of hearing both sides. Even in the event of non-appearance of the petitioner, the Appellate Court ought not to dismiss the appeal for default. The proper course would be to appoint a Legal Aid Counsel, hear the matter on merits, and dispose of the appeal in accordance with law. Therefore, the dismissal of the appeal for non-prosecution cannot be sustained.

7. Accordingly, the docket order returning the restoration petition is set aside. The appeal in C.A.No.111 of 2025 shall stand restored to the file. The Second Additional District Judge, Tiruchengode is directed to hear and dispose of the appeal on merits and in accordance with law, after affording sufficient opportunity to the parties.

8. With the above directions, this Criminal Original Petition is allowed.

12-06-2026

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



CRL OP No. 14848 of 2



To
II Additional District Judge,
Tiruchengode

WEB COPY



WEB COPY

CRL OP No. 14848 of 2



M.NIRMAL KUMAR, J.

PVS

CRL OP No. 14848 of 2026

12-06-2026