



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-06-2026

WEB COPY

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THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

**CRL OP No. 16320 of 2026
& Crl.M.P.No.10775 of 2026**

D.Richard

Petitioner

Vs

D.Manivannan
Proprietor of M/s.D. Manivannan and Co.,
No.T/D-95 and T/C-39, Anna Fruit Market,
Koyambedu, Chennai-92.

Respondent

PRAYER Criminal Original Petition filed under Section 528 of BNSS Act, seeking a direction to call for the records and set aside the order passed by the learned Metropolitan Magistrate, FTC-II, AT Allikulam, Chennai in Crl.MP.No.2 of 2025 dated 19.12.2025 in STC No.7778 of 2024.

For Petitioner: Mr.K.Mahendran

For Respondents: Mr.R.Rajasekaran,
Counsel for Government of
Tamil Nadu (Crl. Side)

ORDER

This Criminal Original Petition is filed to set aside the order dated 19.12.2025 made in Crl.M.P.No.2 of 2025 in S.T.C No.7778 of 2024.

2. The case relates to an offence under Section 138 of the Negotiable Instruments Act. It is stated that Non Bailable Warrant was issued on



16.06.2025. On account of a Road Traffic accident, the petitioner was unwell and therefore he couldn't appear on that day i.e., 16.06.2025. Upon knowing about the issuance of non bailable warrant, an application was filed on 19.12.2025 along with an application to dispense with the appearance of the accused and the same is now dismissed by the Trial Court, as against which, the present Criminal Original Petition is filed.

3. The learned counsel for the petitioner would submit that the petitioner has suffered a head injury and only on account of the same, the petitioner was not able to be physically present before the Trial Court.

4. I have considered the submissions made by the learned counsel for the petitioner and this Criminal Original Petition is disposed off at the admission stage without notice to the respondent / complainant.

5. On perusal of the typed set of papers, it is seen that the medical certificate issued in favour of the petitioner only states that the petitioner has a history of Road Traffic accident, and having suffered a head injury of Left Parieto Occipital Sub Arachnoid Haemorrhage and he is advised to regularly check his blood pressure level and to take adequate rest and avoid travel as far as possible.



6. Therefore, it is not a case as if the petitioner is not in a position to be present before the trial court. Considering the fact that the application was filed within three months, the same can also be considered positively in the best interest of the further progress of the case.

7. In view thereof, this Criminal Original Petition is disposed off on the following terms:

- i. within 10 days from the date of receipt of the web copy of this order, the petitioner shall file a fresh petition to recall the application by duly surrendering himself before the Trial Court.
- ii. Upon filing of the application, the Trial Court by issuing advance notice to the counsel for the defacto complaint, consider the application on the same day and pass orders thereon by taking into consideration the observations made above.

Consequently, connected miscellaneous petition is closed.

29-06-2026

vum

Neutral Citation:No

To

1. The Metropolitan Magistrate,
FTC-II, at Allikulam.

2. The Public Prosecutor,
Madras High Court, Chennai.



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D.BHARATHA CHAKRAVARTHY J.

vum

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