



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-06-2026

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THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 14052 of 2026

and

CRL MP No.8961 of 2026

Jayaprakash

Petitioner(s)

Vs

Vijayakumar

Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, praying to set aside the impugned order dated 20.02.2026 passed in CMP No.72 in CC.No.74 of 2021, on the file of Judicial Magistrate Court-Vanur, in dismissing the petition filed for recall PW1 for the purpose of cross examination and allow this Criminal Revision Petition by petitioner to cross examine PW1 on any given date, as a final opportunity for the petitioner.

For Petitioner(s): Mr.R.Veeramani

ORDER

This Criminal Original Petition has been filed to set aside the impugned order dated 20.02.2026 passed in CMP No.72 in CC.No.74 of 2021, on the file of Judicial Magistrate Court, Vanur, dismissing the petition filed to recall PW1 for the purpose of cross examination and consequently permit the petitioner to



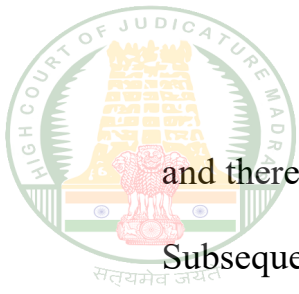
cross examine PW1 on any given date, as a final opportunity for the petitioner.

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2. The petitioner/accused, who is facing trial in C.C.No.74 of 2021 arising out of a complaint filed under Section 138 of the Negotiable Instruments Act by the respondent before the Judicial Magistrate Court, Vanur, had filed Crl.M.P.No.72 of 2026, seeking recall of PW1 for the purpose of cross examination. The said petition was dismissed by an order 20.02.2026. Aggrieved by the same, the petitioner has filed the present petition.

3. The contention of the petitioner is that, he was suffering from serious illness and, as per the advise of the doctor, was unable to travel. For that reason, he could not appear before the trial Court on 10.12.2025 to cross examine the complainant/PW1 and consequently, the cross examination was closed. Hence, he filed the present petition seeking to reopen the evidence, and recall PW1 for cross examination.

4. On a perusal of the impugned order, it is seen that the petitioner had filed petitions for recalling PW1 on three earlier occasions. The petitioner was present before the trial Court when PW1 was examined-in-chief on 19.05.2025,



and thereafter, the case was posted for cross examination of PW1 to 21.05.2025.

Subsequently, at the request of the petitioner, the matter was adjourned to 13.06.2025. Even on that date, the petitioner did not choose to cross examine PW1 and therefore, the cross examination of PW1 was closed. Thereafter, the petitioner was questioned under Section 313(1)(b) Cr.P.C, and the case was posted for defence side witness. However, the petitioner failed to examine any defence witness till 20.08.2025. Instead, he filed a petition seeking to reopen the evidence and recall PW1 for cross examination, which was allowed on condition that PW1 should be cross examined on 25.08.2025. On that day too, the petitioner failed to cross examine PW1 citing certain reasons. Consequently, the cross examination of PW1 was again closed.

5. Thereafter, on 01.09.2025, the petitioner filed a petition to recall PW1, and the same was allowed on 01.11.2025. Even thereafter, till 03.12.2025, the petitioner failed to cross examine PW1. On 07.01.2026, finding that the petitioner not shown any interest letting in any defence side witness, the trial Court has closed the defence side witness and posted the matter on 19.01.2026 for arguments.

6. At that stage, the petitioner once again filed a petition to recall PW1.

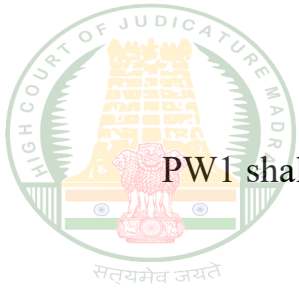


The trial Court, finding that the repeated filing of petition to recall PW1 was only a dilatory tactics and that the petitioner had no genuine inclination to cross examine PW1 and hence, the petition was dismissed and the impugned order was passed.

7. It is seen that, sofar, PW1 has not been cross examined even once. The evidence of the witness has to be tested by way of cross examination, which would be beneficial for the trial Court in arriving at a just and proper decision. Therefore, in the interest of justice, this Court is inclined to grant one final opportunity to the petitioner to cross examine the complainant/PW1, subject to the condition that the petitioner shall pay a cost of Rs.10,000/- to the complainant/PW1.

8. At this juncture, it is stated that the case is posted before the trial Court on 22.06.2026.

9. In view of the above, the cost of Rs.10,000/- shall be paid on or before 22.06.2026. Upon said payment made by the petitioner within the time as stated above, the petitioner is permitted to cross examine PW1 on 22.06.2026. It is made clear that, if the petitioner fails either to pay the cost or to cross examine PW1 on the said date, then the order passed by this Court permitting recalling of



PW1 shall automatically stand cancelled.

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10. With the above directions, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

03-06-2026

Jd

Neutral Citation: Yes/No

To

1. The Judicial Magistrate Court, Vanur.
2. The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR J.
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