



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-06-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 13166 of 2026

Jegajanantham

..Petitioner(s)

Vs

KasiRajan

..Respondent(s)

Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to issue direction to set aside the return docket order dated 29.04.2026 in C.A.SR.No.801 of 2026 on the file of the Principal District and Sessions Court, Mayiladuthurai and consequently, direct the Principal District and Sessions Judge, Mayiladuthurai, to entertain the above appeal and number the same by appreciating the above said facts and circumstances.

For Petitioner(s):

Mr.T.Meganathan

ORDER

This Criminal Original Petition has been filed to set aside the return docket order dated 29.04.2026 in C.A.SR.No.801 of 2026 on the file of the Principal District and Sessions Court, Mayiladuthurai, and consequently, direct the learned Principal District and Sessions Judge, Mayiladuthurai, to entertain the appeal filed by the petitioner and number the same.

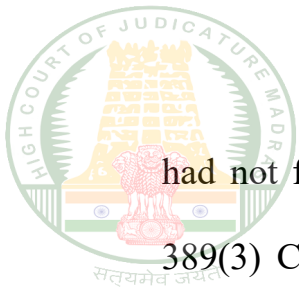


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2.The petitioner, who is the accused in S.T.C.No.297 of 2025 on the file of the Judicial Magistrate Court, Sirkali, filed for the offence under Section 138 of the Negotiable Instruments Act, was convicted by the trial Court by judgment dated 10.04.2026 and sentenced to undergo one year simple imprisonment and to pay a sum of Rs.2,40,000/- as compensation within a period of one month, in default, to undergo simple imprisonment for a period of one month.

3.Aggrieved over the same, the petitioner/accused preferred an Appeal in C.A.SR.No.801 of 2026 before the Principal District and Sessions Court, Mayiladuthurai, along with a petition for suspension of sentence. However, the Sessions Court, by docket order dated 29.04.2026, in C.A.SR.No.801 of 2026, returned the Appeal filed by the petitioner with an endorsement “*Non-Bailable warrant pending against the petitioner, Appellant for the trial Court. Hence how this petition is maintainable ? Time 1 month.*” Aggrieved over the same, the present Criminal Original Petition has been filed by the petitioner/accused.

4.The judgment of the trial Court in S.T.C.No.297 of 2025, which is enclosed in the typed set of papers, is perused. It is seen that there is no reference to issuance of Non-Bailable Warrant against the petitioner/accused. In any event, if the petitioner/accused had not appeared before the trial Court on the date of judgment and a Non-Bailable Warrant is issued and the petitioner



had not filed any petition seeking suspension of sentence, in view of Section 389(3) Cr.P.C./Section 430(3) BNSS, that does not mean that the accused is precluded from filing any Appeal or petition for suspension of sentence under Section 389(1) Cr.P.C./Section 430(1) BNSS. Once judgment is delivered by the trial Court, the trial Court becomes *functus officio* and thereafter, it is for the Appellate Court to pass appropriate orders. The offence under Section 138 of the Negotiable Instruments Act, is a bailable one. In such circumstances, not entertaining an Appeal against conviction or a petition for suspension of sentence, is a denial of fundamental right.

5. In view of the above, this Court is of the view that the learned Principal District and Sessions Judge, Mayiladuthurai, not entertaining the Appeal and the petition for suspension of sentence and returning the same, is not proper. Hence, the impugned docket order passed by the Sessions Court dated 29.04.2026 returning the Appeal papers and the petition for suspension of sentence, is set aside, and the petitioner is directed to represent the Appeal papers and the petition for suspension of sentence before the Sessions Court and on such representation, the learned Principal District and Sessions Judge, Mayiladuthurai, is directed to number the Appeal and the petition for suspension of sentence, if the papers are otherwise in order, hear the same, and pass appropriate orders. Registry is directed to return the original Grounds of Appeal filed by the petitioner along with this petition to the learned counsel for



the petitioner.

CRL OP No. 13166 of 2



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6. Accordingly, this Criminal Original Petition is allowed.

02-06-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MKN

To

1. The Principal District and Sessions Judge,
Mayiladuthurai.

2. The Judicial Magistrate,
Sirkali.



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CRL OP No. 13166 of 2



M.NIRMAL KUMAR J.

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CRL OP No. 13166 of 2026

02-06-2026