



WEB COPY

CRL OP No. 15426 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-06-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 15426 of 2026

Yoga Moorthy
S/o Pakkirisamy,
No.507, Tsunami Residents,
Samba Garden,
Nagore,
Nagapattinam.

..Petitioner(s)

Vs

Suldan Ibunu
S/o Shaliq,
Proprietor of Nowsin Fancy Store,
Nagore.

..Respondent(s)

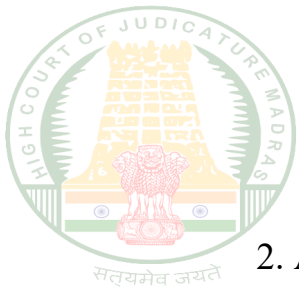
PRAYER: Criminal Original Petition filed under Section 528 of BNSS, to set aside the order dated 09.05.2025 in CrI.MP.No.40 of 2025 on the file of the Learned Fast Track Judicial Magistrate No.I, Nagapattinam and direct the Learned Fast Track Judicial Magistrate to dispose of the same afresh giving notice to the respondent and pass such further or other orders.

For Petitioner(s):

Mr.J.CHANDRAN SUNDER SASHIKUMAR
FOR
Ms.V.Mythili

ORDER

This Criminal Original Petition has been filed to set aside the order dated 09.05.2025 in CrI.MP.No.40 of 2025 on the file of the Court of Judicial Magistrate No.I, Nagapattinam.



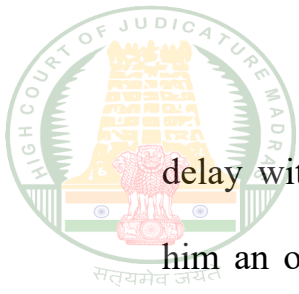
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2. A petition filed by the petitioner / complainant with a delay of two days in filing the complaint has been allowed by the learned Judicial Magistrate No.1, Nagapattinam vide its order dated 09.05.2025 and the complaint was taken on file. Thereafter a petition under Section 142 (b) of the Negotiable Instruments Act, 1881 was filed by the petitioner, stating that notice has not been sent to the respondent/accused and objections of the respondent was not heard, while allowing the Crl.M.P.No.40 of 2025, which is a condition precedent. The said petition came to be dismissed by the learned Fast Track Judicial Magistrate, Nagapattinam, by an order dated 25.03.2026, on the following terms:-

“2.3. If the petitioner finds fault with this Court’s order allowing the condonation of delay without giving an opportunity to the other side, it is for him to approach a higher forum by way of revision. Accordingly, this instant petition is not maintainable and is hereby dismissed.”

3. Now, the present Criminal Original Petition has been filed to set aside the order dated 09.05.2025 in Crl.MP.No.40 of 2025 on the file of the Court of Judicial Magistrate No.I, Nagapattinam.

4. It is seen that the complaint filed by the petitioner under Section 138 of the Negotiable Instruments Act, 1881 was taken on file after condoning a delay of two days. However, the Trial Court allowed the petition for condonation of



delay without issuing notice to the respondent/accused and without affording him an opportunity of being heard. Such non-compliance with the mandatory procedure constitutes a fundamental flaw, which may ultimately affect the rights of the parties.

5. Therefore, this Court set aside the order dated 09.05.2025 in CrI.MP.No.40 of 2025 on the file of the Learned Fast Track Judicial Magistrate No.I, Nagapattinam and the order dated 25.03.2026 in CrI.M.P.No.23 of 2026 on the file of the Court of Fast Track Judicial Magistrate, Nagapattinam. The Trial Court is directed to consider the case of the petitioner afresh, after ordering notice to the respondent / accused and thereafter shall pass orders on merits and in accordance with law.

6. With the above directions, this Criminal Original Petition stands disposed of.

18-06-2026

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

JER
To
The Fast Track Judicial Magistrate,
Nagapattinam.



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M.NIRMAL KUMAR, J.

JER

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