



Crl.RC.(MD) No.1194 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.06.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL.RC.(MD) NO.1194 of 2025

and

CrI.M.P.(MD)No.19469 of 2025

Saranya

.... Petitioner

Vs.

Dhanalakshmi

....Respondent

Prayer: Criminal Revision Petition, filed under section 438 r/w 442 of BNSS, to call for the entire Relevant Records related to the impugned NIL Cr.M.P. order, dated 31.07.2025, passed in C.C.No. 148 of 2022, by the learned Fast Track Magistrate Level, at Karaikudi.

For Petitioner : Mr.R.Senthilkumar

For Respondent : Mr.D.Shanmugaraja Sethupathi

ORDER

The present Criminal Revision Case raises a narrow yet significant procedural question touching upon the scope and application of Section 351(1)(b) of the Bharatiya Nagarik Suraksha



Crl.RC.(MD) No.1194 of 2025

WEB COPY

Sanhita, 2023 (corresponding to Section 313(1)(b) of the Code of Criminal Procedure, 1973). The petitioner seeks interference with the order dated 31.07.2025 passed by the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Karaikudi, whereby a memo filed by the accused seeking a fresh examination under Section 313(1)(b) Cr.P.C./Section 351(1)(b) BNSS was rejected and costs of Rs.1,000/- were imposed.

Factual background:

2. The respondent herein instituted a private complaint under Section 138 of the Negotiable Instruments Act in C.C.No.148 of 2022 on the file of the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Karaikudi. The complaint alleges that the petitioner borrowed a sum of Rs.35,00,000/- and issued a cheque towards discharge of the said liability. Upon presentation, the cheque was dishonoured for insufficiency of funds.

3. After issuance of statutory notice and completion of pre-cognizance formalities, the complaint was taken on file. The



Crl.RC.(MD) No.1194 of 2025

WEB COPY

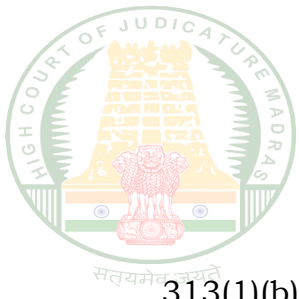
complainant examined herself as PW-1 and filed her proof affidavit.

The petitioner subjected PW-1 to cross-examination on 16.02.2023.

4. Subsequently, the complainant filed a petition under Section 311 Cr.P.C. seeking recall of herself for adducing additional evidence. The said petition in Crl.M.P.No.1059 of 2023 was allowed by the Trial Court on 02.06.2023. The said order was challenged before this Court in Crl.O.P.(MD) No.11222 of 2023. The challenge came to be dismissed. Thereafter, the complainant filed an additional proof affidavit and marked further documents.

5. The petitioner once again challenged the reception of the additional proof affidavit and documents before this Court in Crl.O.P. (MD) No.10983 of 2024. Interim orders were granted and subsequently vacated. Ultimately, the Original Petition itself came to be dismissed with a direction to the Trial Court to dispose of the matter expeditiously.

6. During the course of trial, after closure of the complainant's evidence, the petitioner had already been examined under Section



Crl.RC.(MD) No.1194 of 2025

WEB COPY

313(1)(b) Cr.P.C. on 07.06.2024. Thereafter, at the instance of the accused herself, PW-1 was recalled and subjected to further cross-examination on 19.07.2025 in respect of the additional proof affidavit and documents.

7. Following such cross-examination, the learned Trial Court posted the matter for defence evidence. At that stage, the petitioner filed a memo contending that a fresh examination under Section 313(1)(b) Cr.P.C. ought to be conducted before proceeding further. The learned Magistrate rejected the said request by order dated 31.07.2025 and imposed costs of Rs.1,000/- payable to the District Legal Services Authority, Sivagangai. Aggrieved thereby, the present Revision has been filed.

Submissions on behalf of the petitioner:

8. The learned counsel appearing for the petitioner submitted that the complainant's evidence cannot be treated as having concluded on 29.04.2024 since the complainant was subsequently recalled and further examined. According to the petitioner, once additional evidence is brought on record and further cross-



WEB COPY

examination is undertaken, the earlier examination under Section 313 Cr.P.C. loses its efficacy.

9. It was argued that Section 313(1)(b) Cr.P.C. contemplates examination of the accused after completion of the prosecution evidence and before calling upon him to enter his defence. The learned counsel submitted that the complainant's evidence attained finality only on 19.07.2025 after completion of the recall proceedings. Therefore, according to the petitioner, a fresh examination under Section 313(1)(b) Cr.P.C./Section 351(1)(b) BNSS became mandatory.

10. It was further contended that denial of such opportunity causes serious prejudice and vitiates the fairness of the trial. The learned counsel also questioned the legality of imposing costs on a memo filed invoking a statutory procedural safeguard.

Submissions on behalf of the respondent:

11. Per contra, the learned counsel appearing for the respondent submitted that the petitioner has consistently adopted dilatory tactics throughout the proceedings. It was argued that the



Crl.RC.(MD) No.1194 of 2025

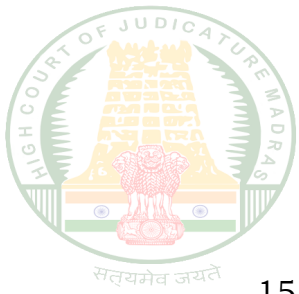
WEB COPY

petitioner has repeatedly challenged the recall order, the additional proof affidavit, and various interlocutory orders before this Court and has thereby protracted a complaint pending from the year 2022.

12. The learned counsel pointed out that the petitioner was admittedly examined under Section 313 Cr.P.C. on 07.06.2024 after closure of the complainant's evidence. It was further submitted that during the subsequent recall proceedings, no fresh incriminating material was introduced.

13. The complainant merely faced further cross-examination on documents already available on record and no new circumstance emerged requiring explanation from the accused. Therefore, according to the respondent, there was no legal necessity to conduct a second examination under Section 313 Cr.P.C.

14. The respondent would further contend that the impugned memo was filed solely to delay the conclusion of trial and the Trial Court rightly rejected the same.



WEB COPY

15. Heard the learned counsels on either side and carefully perused the materials available on record.

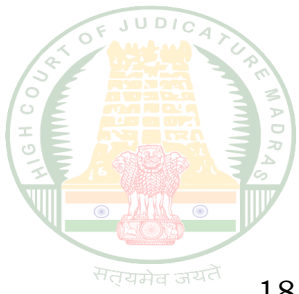
Point for consideration:

16. In the light of the rival submissions, the following point arises for consideration:

"Whether the petitioner was entitled, as a matter of law, to a fresh examination under Section 313(1)(b) Cr.P.C./Section 351(1)(b) BNSS after the further cross-examination of PW-1 on 19.07.2025, and whether the order dated 31.07.2025 warrants interference in revision?"

Analysis:

17. Section 313 Cr.P.C., now substantially reproduced as Section 351 BNSS, embodies one of the most important safeguards available to an accused. The object of the provision is to place before the accused every incriminating circumstance appearing in evidence and afford him an opportunity to explain the same.

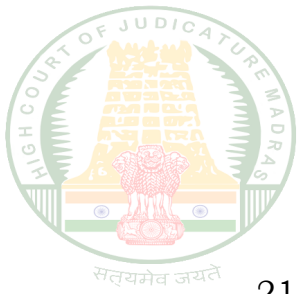


WEB COPY

18. The provision is founded upon principles of natural justice and fair trial. However, the provision does not contemplate repeated examinations whenever proceedings are reopened for any collateral purpose. What necessitates a fresh examination is not the mere continuation of proceedings, but the emergence of a new incriminating circumstance not previously put to the accused.

19. The crucial question is whether the proceedings conducted on 19.07.2025 resulted in any fresh incriminating circumstance being brought on record. A careful perusal of the impugned order reveals that the learned Magistrate specifically recorded that no fresh evidence was introduced during the recall proceedings.

20. The further cross-examination undertaken on 19.07.2025 was principally directed against the additional proof affidavit and documents already available in the record. Significantly, the petitioner has not demonstrated before this Court any particular incriminating circumstance that emerged for the first time during such cross-examination.



WEB COPY

21. No material has been shown indicating that the accused was deprived of an opportunity to explain any newly introduced fact. The petitioner merely asserts that since cross-examination was conducted after the earlier Section 313 questioning, a second questioning automatically becomes mandatory. Such a proposition is unsupported either by the language of Section 313 Cr.P.C. or by settled principles governing criminal trials.

22. The Court cannot lose sight of the fact that the complainant was recalled at the instance of the accused herself. The recall order enabled the petitioner to further challenge the complainant's case. The recall proceedings were therefore a benefit extended to the accused.

23. Merely because such an opportunity was granted, it does not automatically reopen every concluded procedural stage of the trial. If such a principle were accepted, every recall under Section 311 Cr.P.C. would necessarily require repetition of Section 313 examination irrespective of whether any new circumstance emerged.



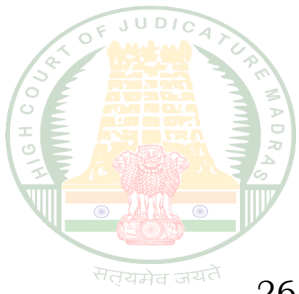
Crl.RC.(MD) No.1194 of 2025

WEB COPY

Such an interpretation would defeat the very object of expeditious trial.

24. The record discloses that the petitioner challenged the recall order before this Court. The petitioner thereafter challenged the additional proof affidavit. Proceedings remained delayed on account of multiple litigations. Ultimately, this Court dismissed the challenge and directed expeditious disposal of the trial. The Trial Court was therefore justified in ensuring that the proceedings moved forward.

25. The learned Magistrate imposed costs of Rs.1,000/- upon the petitioner. The order indicates that the Trial Court formed the opinion that the memo was intended to prolong the proceedings. Having regard to the long history of interlocutory proceedings and repeated challenges mounted by the petitioner, such conclusion cannot be said to be wholly unfounded.



WEB COPY

26. The cost imposed is nominal in nature. No manifest illegality or jurisdictional error is demonstrated warranting interference under revisional jurisdiction.

27. The revisional jurisdiction of this Court is supervisory and corrective. Interference is justified only when there exists patent illegality, jurisdictional error, material irregularity or manifest miscarriage of justice. The impugned order does not suffer from any such infirmity.

28. The petitioner was already examined under Section 313 Cr.P.C. No fresh incriminating circumstance has been shown to have emerged thereafter. Consequently, the refusal to conduct a second examination cannot be characterized as illegal.

29. This Court holds that a fresh examination under Section 313(1)(b) Cr.P.C./Section 351(1)(b) BNSS is not mandatory merely because a witness was subsequently recalled and further cross-examined. Such re-examination becomes necessary only where new incriminating circumstances emerge requiring explanation from the



Crl.RC.(MD) No.1194 of 2025

WEB COPY

accused. In the present case, no such circumstance has been demonstrated.

30. The learned Judicial Magistrate was therefore justified in rejecting the memo seeking a fresh examination under Section 313 Cr.P.C. No ground is made out warranting interference in exercise of revisional jurisdiction.

31. In the result, this Criminal Revision Case stands **dismissed**.

32. The order dated 31.07.2025 passed by the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Karaikudi in C.C.No.148 of 2022 is hereby **confirmed**.

33. The Trial Court is directed to proceed with the matter and dispose of C.C.No.148 of 2022 as expeditiously as possible, preferably within a period of one month from the date of receipt of a copy of this order, uninfluenced by any observations made herein except to the extent necessary for deciding the present revision.



Crl.RC.(MD) No.1194 of 2025

WEB COPY

Consequently, connected miscellaneous petitions, if any, shall stand closed.

15.06.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

The Judicial Magistrate,
Fast Track Court at Magisterial Level,
Karaikudi



WEB COPY



CrI.RC.(MD) No.1194 of 2025

L.VICTORIA GOWRI, J.

Sml

CrI.RC.(MD)No.1194 of 2025

15.06.2026