



Crl.OP(MD)No.22106 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **05.02.2026**

CORAM

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

Crl.O.P.(MD).No.22106 of 2025
and Crl.M.P(MD).No.19028 of 2025

C.Ponraj

...Petitioner

Vs.

S.Karuppasamy

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the impugned order dated 15.10.2025 in Crl.M.P.No.1320 of 2025(CNR No.TN VR 005497-2025) in S.T.C.No.48 of 2024 on the file of the learned Judicial Magistrate, Fast Track Court, Srivilliputhur and to set aside the same and direct the learned Judicial Magistrate, Fast Track Court, Srivilliputhur, to recall P.W.1 to P.W.3 for cross-examination in S.T.C.No.48 of 2024 on the file of the learned Judicial Magistrate, Fast Track Court, Srivilliputhur, by allowing this criminal original petition.

For Petitioners : Mr.M.Jerin Mathew

For Respondent : Mr.S.Surya



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ORDER

Seeking to set aside the orders passed by the learned Judicial Magistrate, Fast Track Court, Srivilliputhur, in Crl.M.P.No.1320 of 2025(CNR No.TN VR 005497-2025) in S.T.C.No.48 of 2024 dated 15.10.2025, this criminal original petition is filed.

2.The learned counsel for the petitioner submitted that the petitioner herein is the accused before the trial Court in a complaint lodged by the respondent under Section 138 of the Negotiable Instruments Act. The petitioner had filed a petition under Section 311 of Cr.P.C., before the trial Court in Crl.M.No.1320 of 2025 in S.T.C.No.48 of 2024 to recall P.W.1 to P.W.3 for cross-examination. However, the same was dismissed by the trial Court vide order dated 15.10.2025. Hence, this petition.

3.The learned counsel for the respondent categorically contended that on each and every hearing, it is the tactics of the petitioner to



change his advocate and seek for recall and re-examination of the witnesses. This is not the first time, the petitioner is seeking for recall of examination of the witnesses and only to protract the pending trial, this application has been filed and there is no infirmity in the order passed by the learned trial Court and hence, sought for dismissal of this petition.

4.Heard the submissions on either side and carefully perused the materials available on record.

5.As pointed out by the learned counsel for the respondent, only for the reason that there is a change in counsel, the petitioner has filed an application under Section 311 of Cr.P.C., seeking recall P.W.1 to P.W.3 for cross-examination. However, the learned trial Court, having gone through the records had negated his client and recorded that change of counsel could not be a ground for allowing the recall petition. It is also categorically observed that the petitioner and his wife are the retired Government Servants and they are drawing regular Government



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retirement benefits. Despite the same, they are not diligently conducting the case and are filing application after application to protract the proceedings. It is the contention of the learned counsel for the petitioner that it is only because of the inexperience of the free Legal Aid Counsel, who had failed to affix the stamps, Advocate Welfare Fund Stamp and Clerk Welfare Stamp, properly and also the negligence in fixation of the Court fee, the trial Court had passed in the impugned order. However, now they have engaged another counsel, who will diligently conduct the cross-examination of P.W.1 to P.W.3 and sought for one more chance. Under such circumstances, to ensure fair trial, the impugned order made in Crl.M.P.No.1320 of 2025 (CNR NO.TN-VR-005497-2025) in S.T.C.No.48 of 2024 on the file of the learned Judicial Magistrate, Fast Track Court, Srivilliputhur, is hereby set aside. The learned Judicial Magistrate is directed to permit the petitioner to recall and cross-examine P.W.1 to P.W.3 on payment of a witness batta of Rs.5000/- each, on the date fixed by the learned trial Court and it is made clear that on the very same day, the examination of the aforesaid witnesses should be concluded. It is also further directed the petitioner



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to pay a cost of Rs.10,000/- to the respondent.

6.With the above direction, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

05.02.2026

NCC : Yes / No

Index : Yes / No

Rmk

To

1.The Judicial Magistrate, Fast Track Court, Srivilliputhur.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Rmk

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