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Crl.O.P.No.29466 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2026

CORAM:

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.29466 of 2025

and

Crl.M.P.No.20065 of 2025

E.Helen Emmimal

... Petitioner

Vs.

Leelavathy

... Respondent

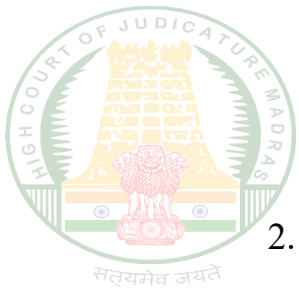
PRAYER: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, to call for the records and set aside the order in Crl.M.P.No.13260 of 2025 in C.C.No.658 of 2021 dated 08.09.2025 on the file of the Metropolitan Magistrate, Fast Track Court – I, Egmore @ Allikulam, Chennai – 03.

For Petitioner : Mr.P.Thinesh

For Respondent : Mr.D.Panchatsaram

ORDER

This petition has been filed seeking to set aside the order dated 08.09.2020 passed in Crl.M.P.No.13260 of 2025 dismissing the petition filed under Section 311 of Cr.P.C. to reopen and recall the defence witness (P.W.1) for the purpose of cross-examination.



2. The petitioner is facing trial for the offence under Section 138 of the Negotiable Instruments Act, 1881. The petitioner had filed an application before the learned Metropolitan Magistrate Fast Track-I, Allikulam, Chennai seeking to recall P.W.1. However, the learned Magistrate dismissed the said application vide order dated 08.09.2025, stating that the petitioner had been continuously absent before the Court. Challenging the same, the present petition has been filed.

3. The learned counsel for the petitioner submits that though there were laches on the part of the petitioner in not cross-examining the witness on the date fixed by the trial Court, denial of an opportunity would cause grave prejudice to her. He further submits that the petitioner is ready and willing to cross-examine the witness on any date fixed by the trial Court and is also prepared to abide by any stringent condition that may be imposed by this Court. He further submits that the petitioner will co-operate for the speedy disposal of the case.

4. Per contra, learned counsel appearing for the respondent / complainant submits that the chief examination in the case was completed on 29.07.2025 and thereafter, the matter was posted on several dates, namely, 05.01.2025, 21.08.2025, 08.09.2025 and 11.09.2025. Since the

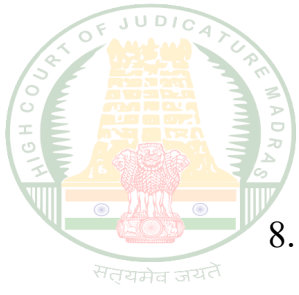


petitioner did not take any steps to cross-examine P.W.1, the learned trial judge had dismissed the application and closed the evidence. Taking into consideration the petitioner's continuous defiance by non-appearance before the Court, the learned counsel would object to the allowing of the present petition.

5. At this juncture, the learned counsel for the petitioner would submit that the petitioner, in order to show her *bona fides*, is ready to deposit a sum of Rs.50,000/- to the credit of C.C.No.658 of 2021 and the petitioner undertakes that P.W.1 will be cross-examined on any day fixed by the trial judge.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. Though this Court finds that the petitioner had continuously not appeared before the trial Court for cross-examination of P.W.1, and the trial Court has rightly dismissed the petition taking into consideration the submissions made, this Court is of the opinion that one opportunity may be afforded to the petitioner to cross-examine the witness.



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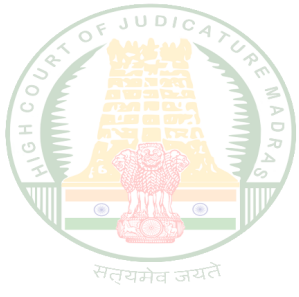
8. In view of the above, the order dated 08.09.2025 of the learned Magistrate in Crl.M.P.No.13260 of 2025 in C.C.No.658 of 2021 stands set aside. The petitioner shall deposit a sum of Rs.50,000/- to the credit of CC.No.658 of 2021 within a period of one week from the date of receipt of a copy of this order. On such deposit being made, the learned trial Judge shall fix a date for appearance of P.W.1. On the said date, the petitioner shall cross-examine P.W.1 without fail. In the event of the petitioner failing to cross-examine P.W.1 on the date so fixed, the petitioner shall forfeit any further opportunity for cross-examination.

9. Accordingly, this criminal original petition stands allowed in the above terms. Consequently, connected miscellaneous petition stands closed.

21.01.2026

Note: Issue order copy on or before 23.01.2026.

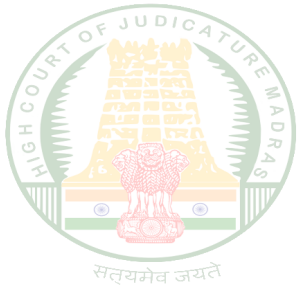
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To

The Metropolitan Magistrate,
Fast Track Court – I, Egmore @ Allikulam, Chennai – 03



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A.D.JAGADISH CHANDIRA, J.

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