

Crl.O.P.(MD)No.12955 of 2025

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 05.08.2025

CORAM :

**THE HON'BLE MR.JUSTICE B.PUGALENDHI**

**Crl.OP(MD)No.12955 of 2025**  
**and**  
**Crl.M.P.(MD)No.10189 of 2025**

M.Periyasamy

... Petitioner

versus

C.Prakash

...Respondent

**Prayer :** Criminal Original Petition filed under Section 528 of BNSS, to set aside the order passed by the learned Judicial Magistrate No.I (Fast Track Court), Madurai, in Crl.M.P.No.4868 of 2025 dated 08.07.2025 in S.T.C.No. 508 of 2022 and allow this petition.

For Petitioner : Mr.K.Sathish Kumar

**ORDER**

The petitioner is the sole accused in S.T.C.No.508 of 2022 on the file of the learned Judicial Magistrate No.I (Fast Track Court), Madurai. The said case was filed by the respondent as against the petitioner for the offence under Section 138 of the Negotiable Instruments Act.

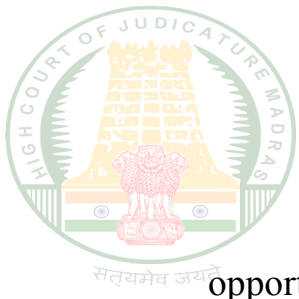


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2. The complainant/P.W.1 was examined in Chief on 16.02.2023. He was cross examined on 18.05.2023 and 23.05.2023. P.W.2, a Bank Manager was examined in chief on 18.07.2023. However, the petitioner failed to cross examine P.W.2, who was available for cross examination. Thereafter, the defence side evidence was closed on 08.11.2023. After the closure of defence evidence, the petitioner has filed a petition in CrI.M.P.No.4868 of 2025 on 17.06.2025 seeking to recall P.W.2 for the purpose of cross examination. The trial Court, by considering the manner in which the application has been filed by the petitioner and that too for cross examination of the Bank Manager in the proceedings initiated under Section 138 of the Negotiable Instruments Act, dismissed the said petition, by order dated 08.07.2025. Challenging the same, the petitioner has filed this petition.

3. The learned counsel appearing for the petitioner submits that the entire case of the complainant is that he has pledged the jewels in the bank of P.W.2 and raised funds. With this fund, he lent money to the petitioner. The petitioner is having certain points to establish the case of the complainant as a false one. Therefore, the petitioner must be provided an



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opportunity to cross examine P.W.2 to establish his case.

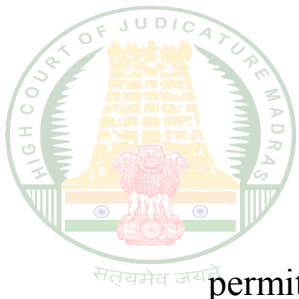
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4. Though the learned counsel for the petitioner claims that the petitioner has to examine P.W.2 to establish his defence, this Court is not inclined to find fault with the order passed by the learned Judicial Magistrate No.I, (Fast Track Court), Madurai. However, considering the fact that the petitioner is facing an offence under Section 138 of the Negotiable Instruments Act that he has borrowed a sum of Rs.7,50,000/- from the defacto complainant and this amount was raised by the complainant by pledging his jewels in the Bank of P.W.2, this Court is inclined to provide one opportunity to the petitioner to cross examine P.W.2.

5. Accordingly, this Criminal Original Petition is allowed and the order passed by the learned Judicial Magistrate No.I (Fast Track Court), Madurai, in Crl.M.P.No.4868 of 2025 dated 08.07.2025 in S.T.C.No.508 of 2022 is set aside on the following directions:

(i) The petitioner is permitted to file a fresh application before the trial Court along with a demand draft of Rs.10,000/- each in the name of P.W.2 and in the name of the complainant.

(ii) On filing such application, the learned Judicial Magistrate shall



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permit the petitioner to cross examine P.W.2, after ascertaining the convenience of P.W.2. The demand draft of Rs.10,000/- drawn in favour of P.W.2 shall be handed over by the Court to P.W.2 on his appearance and the demand draft of Rs.10,000/- drawn in favour of the defacto complainant shall be handed over to the defacto complainant.

(iii) In the event if the petitioner fails to pay the sum of Rs.20,000/- within a period of two weeks from the date of receipt of a copy of this order, the trial Court is at liberty to proceed with the case in S.T.C.No.508 of 2022 and pass suitable orders on merits.

Consequently, connected miscellaneous petition is closed.

**05.08.2025**

NCC : Yes/No

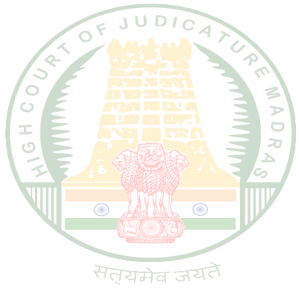
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To

1. The learned Judicial Magistrate No.I  
(Fast Track Court),  
Madurai.



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**B.PUGALENDHI, J.**

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