

IN THE COURT OF THE JUDICIAL MAGISTRATE, KOMARAPALAYAM

**Present : Tmt.A.K.Padmapriya, B.Sc, M.L.,
Judicial Magistrate, Komarapalayam**

Monday, the 08th day of September – 2025

MP.No.13/2025 and 14/2025 in STC.No. 419/2020

Prakash

... Petitioner / Accused

//vs//

Murugaraj

... Respondent/Complainant

Having heard this petition in the presence of **Thiru. Gu.Nagappan**, the learned counsel for the petitioner and **Thiru.K.A.Saravana Rajan**, the learned counsel for the respondent and on perusal of the records and having stood over for consideration of this application till date, this court on merit doth the following:

COMMON ORDER

The petitioner had filed this application under section 311 of the code of Criminal Procedure to reopen and recall PW1 for cross examination.

GIST OF THE PETITION:

The respondent had filed complaint against the complainant under section 138 of the Negotiable Instrument Act. The petitioner has filed the present petition u/S. 311 of Cr.P.C to recall the PW1 for further cross examination. The petitioner submits that, the said case was posted for arguments. The complainant had produced Bank Statement for the period from 01.05.2019 to 31.05.2019 and other Statement of Accounts. The petitioner submits that, the complainant has suppressing the real transaction and the petitioner intends to establish the transaction with the complainant for the period from 01.01.2018 to 31.12.2019 and hence, prayed to allow this petition.

GIST OF THE COUNTER:

The petition is false, vexatious, untenable, frivolous and is not maintainable either in law or on facts and is liable to be dismissed in limine. The petitioner had cross examined PW1 on 02.07.2025 and 14.07.2025 and after 313(1)(b) Questioning the case was posted to Defense side Evidence. But, the petitioner did not intend to adduce defense side evidence and hence, posted for arguments and filing of present petition is only to drag on the proceedings of the case. Hence, prayed to dismiss the application.

POINT FOR CONSIDERATION:

1. Whether the said application is to be allowed or not?

ANSWER TO THE POINT NO.1

The petitioner who is the accused in the main case had filed application to examine to recall PW1 for cross examination. The complainant had produced Bank Statement for the period from 01.05.2019 to 31.05.2019 and other Statement of Accounts. The petitioner submits that, the complainant has suppressing the real transaction and the petitioner intends to establish the transaction with the complainant for the period from 01.01.2018 to 31.12.2019 and hence, prayed to allow this petition. The respondent do objected the same and contended that PW1 was cross examined on 02.07.2025 and 14.07.2025. On perusal of the cross examination of PW1, it is seen that, the accused had already sufficiently crossed PW1 about the said documents. On perusal of the case records, it is seen that, the case was pending from the year of 2019 and already sufficient opportunity was given to the accused on 13.06.2025, 20.06.2025, 25.06.2025, 09.07.2025, 14.07.2025. Despite all the opportunities given to the accused and after cross examination of PW1 for twice, the accused had filed this application without any reason. The accused himself had admitted that, he needs to pay Rs.6.50 Lakhs to the complainant in the insolvency petition filed by the accused before Sub Court, Tiruchengode. Considering the facts and circumstances of

the case and as already sufficient opportunities were given to the accused, this court do not find any bonafide reason in allowing the application. Hence, the said application being devoid of merits, the said petitions are dismissed.

IN THE RESULT:

1. The petition is dismissed. No cost.

Directly typed by me in the Computer and corrected by me and the order pronounced in the open court on the 08th day of September 2025.

**Judicial Magistrate,
Komarapalayam**