



CrI. O.P.(MD) No.13104 of 2026,

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

**CrI.O.P(MD).No.13104 of 2026
and
CrI.M.P(MD).No.12837 of 2026**

Muthaiah

... Petitioner

Vs

The State of Tamil Nadu,
Rep., by the Inspector of Police,
Koomapatty Police Station,
Virudhunagar District.
Crime No. 113 of 2021.

... Respondent

PRAYER: To call for the records and SET ASIDE the Order passed in CrI.M.P.No. 122 of 2026 dated 17.03.2026 in C.C.No. 82 of 2024 on the file of the Learned District Munisf cum Judicial Magistrate Watrap, Virudhunagar District and allow the same.



Crl. O.P.(MD) No.13104 of 2026,

WEB COPY

For petitioner : Mr.R.Jegadeeswaran

For Respondent : Mr.P.Samuel Gunasingh
Government Advocate (Crl.Side)

ORDER

The present petition has been filed by the accused in C.C.No.82 of 2024, on the file of the learned District Munsif cum Judicial Magistrate Watrap, Virudhunagar District, seeking to set aside the order passed, wherein the application filed by the petitioner under Section 348 of BNSS has been rejected.

2. A perusal of the records reveals that the petitioner is charged for the offences under Sections 294(b), 355, 324, 342, 506(i) of IPC. The charge sheet further reveals that there is a pathway dispute between the defacto complainant and the accused persons and there was a wordy quarrel and an altercation between them.



Crl. O.P.(MD) No.13104 of 2026,

WEB COPY

3. In this case P.W.1 and P.W.3 were chief-examined on 24.01.2024, P.W. 4 and P.W.5 were chief-examined on 07.05.2024 and P.W6 was chief-examined on 14.05.2024. However, they were not cross-examined on the same date. The present application has been filed on 17.02.2026, seeking to recall P.W.1 to P.W.6 on the ground that the counsel was not available on the said date for cross-examination.

4. The said application has been dismissed by the trial Court on the ground that the petitioner is trying to drag on the proceedings. The opportunity granted to the petitioner would only result in a mis-carriage of justice. Challenging the same, the present petition has been filed.

5. According to the learned counsel appearing for the petitioner, initially, the case was pending before Judicial Magistrate Court No I Srivilliputhur, Virudhunagar District and later it was transferred to District Munsif cum Judicial Magistrate Watrap, Virudhunagar District and new counsel was engaged.



Crl. O.P.(MD) No.13104 of 2026,

WEB COPY

6. He further submits that the other list of witnesses on the side of the prosecution are yet to be examined and in such circumstances, an opportunity may be granted to the petitioner to recall P.W.1 to P.W.6 for the purpose of cross-examination.

7. Heard the learned counsel appearing for the petitioner and perused the material records of the case.

8. Considering the fact that other list witnesses on the side of the prosecution have to be examined and the present petition has been filed after the transfer of case to a new Court, this Court is inclined to allow the application on the following terms:-

- a) The order impugned is set aside and the petitioner is permitted to recall and cross-examine P.W.1 to P.W.6.



Crl. O.P.(MD) No.13104 of 2026,

WEB COPY

- b) The petitioner is directed to pay patta within a period of three days from the date of receipt of copy of this order.
- c) The petitioner is directed to cross-examine the witnesses on the date when he appears.
- d) It is made clear that no further adjournment shall be granted to the petitioner.
- e) No costs. Consequently, connected miscellaneous petition is closed.

03.07.2026

Index : Yes / No
Internet : Yes / No
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Crl. O.P.(MD) No.13104 of 2026,

R.VIJAYAKUMAR, J.

rgm

To:

The Inspector of Police,
Koomapatty Police Station,
Virudhunagar District.
Crime No. 113 of 2021.

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