



Crl.OP(MD) No.16629 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.08.2026

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.16629 of 2026
and Crl.MP(MD) No.16166 of 2026

P.Perumal

... Petitioner

Vs

The State of Tamilnadu Rep By,
The Inspector of Police,
SS Colony Police Station, Maduari
(Crime No.52 of 2019).

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS., to call for the records relating to the impugned order dt.27.7.2026 made in Cr.M.P.No.2 of 2026 in C.C.No.197 of 2020 on the file of the learned Judicial Magistrate No.V, Madurai and set aside the part dismissal of recalling P.W-1 and P.W-2 and allow the petition in the interest of justice.

For Petitioner : Mr.J.William Christopher

For Respondent : Mr.B.Arun
Government Advocate (Crl.Side)



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ORDER

The present petition has been filed by the accused in CC No.197 of 2020 on the file of the Judicial Magistrate No.V, Madurai seeking to set aside the order, dated 27.07.2026, wherein, the request of the petitioner to recall PW1 and PW2 for cross examination has been rejected.

2.It could be seen from the records that the petitioner is charged with the offence under Section 379 of IPC. In this case, PW1 and PW2 were chief examined on 08.10.2025 and they were not cross examined on the same date. The petitioner has filed Crl.MP.No.1 of 2026 seeking to recall PW1 and PW2 and the same was allowed on 14.05.2026. The witnesses had appeared on 18.06.2026. However, they were not cross examined on the said date. Again, the present application has been filed in Crl.M.P.No.2 of 2026 seeking to recall PW1, PW2 and PW4 for the purpose of cross examination. The trial Court has allowed the application partly permitting the petitioner to recall PW4 alone and dismissed the same with regard to PW1 and PW2. This order is put to challenge in the present petition.



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3. According to the learned counsel appearing for the petitioner, on 18.06.2026 due to Advocates boycott, the counsel could not appear on the said date and therefore, the cross examination could not be conducted. Due to this, the petitioner should not be put to prejudice. If an opportunity is granted, they would cross examine PW1 and PW2 on the same date.

4. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. As could be seen from the records, the application filed by the petitioner in CrI.M.P.No.1 of 2026 has been allowed on 14.05.2026. It is the contention of the petitioner that on 18.06.2026 since the Advocates were on boycott, the witnesses could not be cross examined. This Court is of the considered opinion that the petitioner should not be put to prejudice because of the such incident. One more opportunity could be granted to the petitioner to cross examine PW1 and PW2.



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6.In such view of the matter, this Court is inclined to pass the following order:

- a) The impugned order in Crl.M.P. No. 2 of 2026 in C.C. No.197 of 2020, dated 27.07.2026 passed by the learned Judicial Magistrate No.V, Madurai is set aside insofar as recall of PW1 and PW2 is concerned and the petitioner shall be permitted to recall and cross examine PW1 and PW2;*
- b) the petitioner shall pay batta within a period of three days from the date of receipt of copy of this order;*
- c) the petitioner is directed to cross examine PW1 and PW2 on the date on which they appears;*
- d) the petitioner shall not be granted any further opportunity for cross examination of PW1 and PW2.*

7.In the above terms, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

07.08.2026

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
PNM



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To

1.The Judicial Magistrate No.V, Madurai

2.The Inspector of Police,
SS Colony Police Station, Maduari

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



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R.VIJAYAKUMAR, J.

PNM

ORDER MADE IN
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