



Crl.OP(MD) No.16664 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.08.2026

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.16664 of 2026
and Crl.MP(MD) No.16172 of 2026

Jeyalakshmi

... Petitioner

Vs

The State of Tamilnadu Rep By,
The Sub-Inspector of Police, Algsc,
Thoothukudi, Thoothukudi District.
(Crime No.03 of 2008).

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS., to call for the records pertaining to the order dt.06.07.2026 passed by the learned Judicial Magistrate No.4, Thoothukudi, Thoothukudi district in Cr.MP.No.1222 of 2026 in C.C.No.1048 of 2023 and set aside the same.

For Petitioner : Mr.A.Baskaran

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



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ORDER

The present petition has been filed by A1 in C.C.No.1048 of 2023 on the file of Judicial Magistrate No.4, Thoothukudi, seeking to set aside the order in Crl.MP.No.1222 of 2026, dated 06.07.2026, wherein, the request of the petitioner to recall PW2 for the purpose of cross examination has been rejected.

2.It could be seen from the records that the petitioner is charged with the offences under Sections 465, 468, 419 and 420 IPC. PW1 and PW2 were chief examined on 21.03.2022. They were not cross examined on the said date. The petitioner had filed Crl.M.P.No.874 of 2022 for recalling PW1 and PW2 and the same was allowed. However, PW1 alone had appeared on 12.01.2026 and PW2 had not appeared on the said date, due to his illness. On that date, PW1 was cross examined by the petitioner. Since PW2 could not appear and produced a Medical Certificate, the Court had closed the evidence of PW2. Aggrieved over the same, the petitioner has filed Crl.MP.No.1222 of 2026 to recall PW2 again. This application has been dismissed by the trial Court on the sole ground that a second attempt is being made to recall PW2 without cross examining him, when he had earlier appeared. This order is put to challenge.



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3. According to the learned counsel appearing for the petitioner on 12.01.2026, PW2 had not appeared citing medical reasons and therefore, he could not be cross examined. The Court had erroneously closed the evidence of PW 2 and therefore, the petitioner is forced to file another application in Crl.MP.No.1222 of 2026. There is no fault on the part of the petitioner.

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

5. As could be seen from the e-Court Diary, dated 12.01.2026, the evidence of PW2 has been closed by the Court on the ground that a Medical Certificate has been produced and the Court has expressed satisfaction and recorded his absence. However, the Court has proceeded to close the cross examination of PW2, which has caused a prejudice to the petitioner herein. There is no fault on the part of the petitioner in not cross examining PW2 on 12.01.2026.



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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.MP.No.1222 of 2026, dated 06.07.2026 passed by the learned Judicial Magistrate No.4, Thoothukudi is set aside and the petitioner shall be permitted to recall and cross examine 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 PW2 on the date on which he appears;*
- d) the petitioner shall not be granted any further opportunity for cross examination of PW2.*

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

06.08.2026

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

Note: Issue order copy on 11.08.2026
PNM



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To

- 1.The Judicial Magistrate No.4, Thoothukudi
- 2.The Sub-Inspector of Police, Algsc,
Thoothukudi, Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

PNM

ORDER MADE IN
Crl.OP.(MD)No.16664 of 2026
and Crl.MP(MD) No.16172 of 2026

06.08.2026