



**Crl.O.P.(MD).No.15461 of 2022**

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2023

CORAM

**THE HON'BLE MR.JUSTICE G.ILANGO VAN**

**Crl.O.P.(MD).No.15461 of 2022**  
**and Crl.M.P.(MD).No.10133 of 2022**

S.P.Mariappan

... Petitioner

Vs.

State Represented by,  
The Inspector of Police,  
Railway Police Station,  
Thoothukudi District.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records and set aside the order dt.2/8/2022 passed in Cr.MP.No.3965/2022 in CC no.514/2017 on the file of the Learned Judicial Magistrate No.IV(FAC), Thoothukudi, Thoothukudi District.

For Petitioner : Mr.R.Ilayaraja

For Respondent : Mr.M.Vaikkam Karunanithi  
Government Advocate (Crl.side)



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**ORDER**

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This Criminal Original Petition is filed to call for the records and set aside the order dated 2/8/2022 passed in Cr.MP.No.3965/2022 in CC no.514/2017 on the file of the Learned Judicial Magistrate No.IV(FAC), Thoothukudi, Thoothukudi District.

2. The petitioner is facing charges under Sections 3(a) of Railway Property (Unlawful possession) Act, 1966, before the trial Court. P.W.1 to P.W.5 were examined in chief on various dates as mentioned in the order dated 02.08.2022. On the date of chief examination, no cross was made by this petitioner. Later, the present application came to be filed by the petitioner seeking recall the witnesses P.W.1 to P.W.5 for cross examination. That came to be dismissed by the trial Court stating that no proper reason was assigned and the case is also posted for defence side witnesses. Since it is a five years old matter, it was not considered. Challenging the same, this petition is filed.

3. Even before this Court, learned counsel on record appearing for the petitioner could not inform the reason for not cross examining the



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witnesses at the time of chief examination. But however, considering the fact that not even a single witness has been cross examined, that can be permitted by payment of cost of Rs.2,500/- (Rupees Two Thousand and Five Hundred only) for each witness.

4. On that account, this Criminal Original Petition is allowed on payment of Rs.2,500/-(Rupees Two Thousand and Five Hundred only) for each witness. On such deposit is being made, permission has to be granted to the petitioner to recall the witnesses by the trial Court. The trial Court shall recall the witnesses P.W.1 to P.W.5 for further cross examination by fixing a particular date. On the said date, the petitioner must cross examine the witnesses without any delay.

5. With the above said directions, this criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

**30.11.2023**

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

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**G.ILANGOVA, J.**

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To

- 1.The Inspector of Police, Railway Police Station, Thoothukudi District.
- 2.The Judicial Magistrate No.IV(FAC), Thoothukudi,  
Thoothukudi District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

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