



Crl.O.P.No.1351 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.01.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.No.1351 of 2025

&

Crl.M.P.No.755 of 2025

D.Muralidharan
S/o.Duraisamy

.. Petitioner

VS.

State rep. by its
The Inspector of Police
V5, Thirumangalam Police Station
Chennai
[Crime No.492 of 2010]

.. Respondent

Prayer: Criminal Original Petition under Section 528 of B.N.S.S. praying to set aside the order passed in Crl.M.P.No.74618 of 2024 in C.C.No.2812 of 2010 on the file of XIII Metropolitan Magistrate, Egmore, Chennai dated 11.12.2024.

For Petitioner : Mr.K.Anandha Raja
For Respondent : Mr.S.Vinoth Kumar
Government Advocate [Crl.side]

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate [Crl.side] appearing for the respondent.



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2. The petitioner is figured as a first accused in C.C.No.2812 of 2010 on the file of XIII Metropolitan Magistrate, Egmore, Chennai. The offences are under Sections 324 and 326 IPC. It appears that PW-1 to PW-4 were not even cross-examined. Therefore, the petitioner filed Crl.M.P.No.74618 of 2024 under Section 311 Cr.P.C. for recalling and cross-examining PW-1 to PW-4. The Court below dismissed the said petition vide order dated 11.12.2024 on the reasoning that it appears to be dragging tactics. The reasoning given by the Court below cannot be faulted. However, it is seen that the aforesaid prosecution witnesses were not even cross-examined. If they are not cross-examined, the petitioner's fate in the trial will be literally doomed. In the interest of justice, I propose to grant relief to the petitioner. The next date of hearing in the case is said to be 29.01.2025.

3. The order impugned in this petition is set aside. The respondent police is directed to cause appearance of the aforesaid witnesses on the next hearing date and on the subsequent hearing dates.



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4. Since non-bailable warrant is pending against the petitioner, the petitioner shall appear before the Court below on 29.01.2025 and file a petition for recall of warrant. On such petition being filed, the Court below shall recall the same. The petitioner undertakes before this Court that he will appear in person or through a pleader on all hearing dates. As and when the prosecution witnesses are produced, they shall be cross-examined immediately. If the petitioner fails to appear before the Court below on 29.01.2025 and fails to cross-examine the aforesaid witnesses on the dates they appear, this order will go automatically and the petitioner will not be able to derive any benefit out of it.

This Criminal Original Petition is allowed in the above terms.
Consequently, connected miscellaneous petition is closed.

17.01.2025

Neutral Citation: Yes/No
Index: yes/no
Speaking Order/Non-Speaking Order
rka/gm



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G.R.SWAMINATHAN, J

rka/gm

To

1. XIII Metropolitan Magistrate
Egmore, Chennai
2. The Inspector of Police
V5, Thirumangalam Police Station
Chennai
3. The Public Prosecutor,
High Court, Madras.

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17.01.2025