



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2025

WEB COPY

CORAM

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No.6858 of 2025

and

Crl.M.P.No.4358 of 2025

R. Gopal

Petitioner

Vs

State By,

The Inspector of Police,

All Women Police Station,

Polur. (Crime No.13 of 2008)

Respondent

PRAYER

Petition filed under Section 528 of Bhartiya Nagarik Suraksha Sanhita, (BNNS), 2023, seeking to call for the records pertaining to the impugned order passed in Crl.M.P.No.59 of 2023 in Sessions Case No.124 of 2009 on the file of the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court) at Thiruvannamalai dated 30.08.2023 and set aside the same and direct the learned judge to allow the petition filed under Section 311 of Cr.P.C., and permit to do cross-examination the witnesses.

For Petitioner : Ms. Rajeswari Nag,
for Mr. M. Venkadesh Kumar

For Respondent : Mr. J. R. Archana,
Government Advocate (Criminal Side)

**ORDER**

WEB COPY

This petition has been filed challenging the order dated 30.08.2023 in Crl.M.P.No.59 of 2023 in S.C.No.124 of 2009 passed by the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), which was dismissed the application filed by the petitioner to recall witnesses P.W.1 to P.W.3, P.W.9, P.W. 11 to P.W.13, P.W.14, P.W.16, P.W.19 and P.W.20 for cross-examination on the petitioner side.

2. The case of the prosecution is that the respondent registered a case in Crime No.13 of 2008 against the petitioner and the other accused for the alleged offences under Sections 341, 366, 354, 376 read with Section 511 of the Indian Penal Code, (IPC). 1860, which was taken on file before the Assistant Sessions Court, Arani. The petitioner is A2, who had filed a transfer petition in Crl.MP.No.4042 of 2023 before the Principal District and Sessions Court, Tiruvannamalai, which was allowed on 25.11.2013, and the case was transferred from the file of the Assistant Sessions Court, Arani to the file of the Assistant Sessions Court, Cheyyar on 17.01.2014. Thereafter, this case was transferred to



the Sessions Judge, Magalir Neethimandram, (Fast Track Mahila Court),

Tiruvannamalai, on 09.10.2020, wherein, the petitioner filed a petition under

WEB COPY

Section 311 of Cr.P.C., in Crl.M.P.No.59 of 2023 in S.C.No.124 of 2009 to

recall PW's.1 to 3, 9, 11 to 13, 14, 16, 19 and 20 for cross examination, which

was dismissed on 30.08.2023, on the grounds that the case has been pending

from the year 2009 and subjecting the victim to prolonged proceedings would

cause undue prejudice and harassment to the witnesses, particularly the victim.

Additionally, the Trial Court noted that given the lapse of 11 years since the

witnesses were examined, the possibility of the witnesses being influenced

cannot be ruled out. Aggrieved by this order, the petitioner has filed the present

petition.

3. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Criminal side) appearing for the respondent and also perused the materials available on record.



WEB COPY

4. On perusal of records shows that the petitioner facing several charges for the offences under Sections 341, 366, 354, 376 read with Section 511 of the IPC. The prosecution had cross-examined P.W.1, P.W.3 and P.W.9 as early as on 03.12.2012, thereafter P.W.11 to P.W.16 on 04.12.2012, and P.W.17 to P.W.20 were examined on 11.12.2012. Though the case was transferred to the present Trial Court in the year 2020, the proceedings under Section 313 of Cr.P.C., was completed in the year 2022. However, the petitioner filed the petition under Section 311 of Cr.P.C., in the year 2023, for the reasons best known to him, that too after completion of the prosecution witnesses.

5. This Court also observed that earlier, the petitioner had filed a similar petition for cross-examining the witnesses and most of the prosecution witnesses were already examined by the petitioner in the year 2012 and 2020. The alleged occurrence took place in the year 2008, after a period of 13 years, further cross examination of prosecution witnesses is deemed unnecessary. Moreover, despite several opportunities to cross-examine the prosecution witnesses, the petitioner kept quite for an extended period without filing any



application. Only after the completion of 13 years, the petitioner has approached this Court, which is highly condemnable. Therefore, this Court is not inclined to

allow the petitioner to cross-examine the prosecution witnesses at this stage.

6. In view of the above, this Court finds no infirmity or illegality in the order dated 30.08.2023 in Crl.M.P.No.59 of 2023 in S.C.No.124 of 2009, passed by the learned Trial Judge. The learned Trial Judge has rightly dismissed the petition filed under Section 311 of Cr.P.C., by the petitioner, and the same is hereby confirmed. However, this Court directs the Trial Court to complete the trial within twelve weeks from the date of receipt of a copy of this order.

7. With the above observations and direction, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is also closed.

17.03.2025

Speaking/Non-speaking order

Neutral Citation: Yes/No

klt



WEB COPY

CRL OP No. 6858 of 2025



G.K.ILANTHIRAIYAN J.

klt

To

- 1.The learned Sessions Judge, Magalir Neethimandram
(Fast Track Mahila Court) at Thiruvannamalai.
- 2.The Inspector of Police,
All Women Police Station, Polur.
3. The Public Prosecutor, High Court, Madras.

**CRL OP No. 6858 of 2025
and
CrI.M.P.No.4358 of 2025**

17.03.2025