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Crl.O.P.No.6351 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6351 of 2025

and

Crl.M.P.No.4072 of 2025

K.M.Sirajudeen

... Petitioner

Vs

1. Augustine Paul Sudhakar M,
S/o.P.G.Soloman,
Inspector of Police,
C-1, Flower Bazar Police Station,
Chennai – 1.

2. K.Nagaimugam (Deceased)

... Respondents

Criminal Original Petition is filed under Section 528 of B.N.N.S.,
to set aside the order dated 27.01.2025 in Crl.M.P.No.15437 of 2024 passed
by the XVI Metropolitan Magistrate, George Town, Chennai.

For Petitioner : Mr.R.Anburaj

For Respondents : Mr.MA.Gouthaman (for R1)



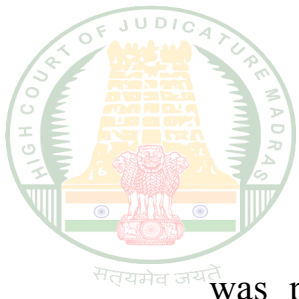
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ORDER

This petition has been filed challenging the order dated 27.01.2025 in Crl.M.P.No.15437 of 2024 passed by the XVI Metropolitan Magistrate, George Town, Chennai.

2. The petitioner is an accused in the complaint lodged by the first respondent herein for the offences punishable under Sections 500, 501, and 502 of IPC in C.C.No.5384 of 2008. The first respondent was examined as PW.1 on 03.08.2009, and Ex.P1 to Ex.P10 were marked. PW.2 was examined on 03.08.2009, PW.3 was examined on 01.12.2009, PW.4 was examined on 05.01.2010, and PW.5 was examined on 22.05.2012. After completion of their witnesses, the first respondent filed an application under Section 311 of Cr.P.C. for re-examination of PW.1, and the same was allowed. Thereafter, PW.1 was re-examined, and Ex.P.11 to Ex.P.17 were marked. After closing his evidence on the side of the prosecution, the petitioner was examined as DW.1, and his evidence was also closed. In fact, the matter has been posted for arguments on various dates. When the matter



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was posted for judgment on 23.10.2024, the first respondent filed an application to reopen and recall PW.1 and to mark further documents. It was allowed on the ground that the documents that are now going to be marked through PW.1 were already in the Court records.

3. The learned counsel for the petitioner would submit that though several opportunities were given to the first respondent, those documents were not marked when PW.1 was re-examined before the Trial Court. That apart, those documents were not annexed along with the complaint.

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

5. On a perusal of those documents, it is revealed that while the first respondent was working as an Inspector of Police, the petitioner was arrayed as an accused in some cases, in which he filed a petition seeking bail and also other communications. Those documents are in no way

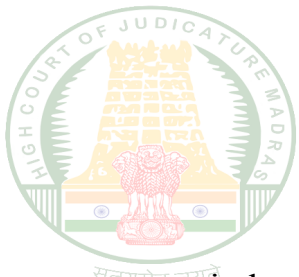


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connected with the present complaint, which has been taken cognizance of for the offences punishable under Sections 500, 501, and 502 of IPC. Therefore, though those documents are very much available with the Trial Court, those documents are in no way related to the complaint.

6. That apart, the complaint is of the year 2008. The prosecution witnesses were already examined in the year 2012 itself. In fact, in the year 2012, once again PW.1 was recalled and Ex.P.11 to Ex.P.17 were marked. After a period of 13 years, once again the first respondent filed the application to recall PW.1 and to mark the additional documents, that too, which are not related to the present complaint. Without considering the above facts and circumstances, the Trial Court allowed the application to recall PW.1 and to mark the additional documents, which were not annexed along with the complaint. In view of the above, the learned counsel for the first respondent relied upon the judgments of the Hon'ble Supreme Court of India in *Manju Devi vs. State of Rajasthan* reported in (2019) 6 SCC 203 and *Harendra Rai vs. State of Bihar* reported in (2023) 13 SCC 563. Both the judgments are not applicable to the case on hand since both the



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judgments were rendered in different circumstances.
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7. In the case on hand, after a period of 13 years, the first respondent filed the petition to recall PW.1 and to mark additional documents. Therefore, this Court finds an infirmity in the order passed by the Trial Court, and it is liable to be set aside.

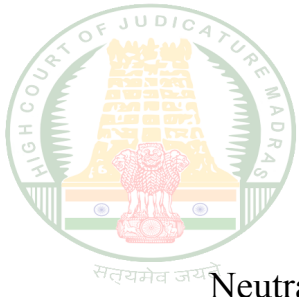
8. Accordingly, the order dated 27.01.2025 in Crl.M.P.No.15437 of 2024 passed by the XVI Metropolitan Magistrate, George Town, Chennai, is hereby set aside. The Trial Court is directed to dispose of the main case within a period of eight weeks from the date of receipt of a copy of this order.

9. In the result, this Criminal Original Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed.

16.04.2025

Index: Yes/No

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Neutral Citation/Yes/No

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To

1. The XVI Metropolitan Magistrate,
George Town, Chennai.
2. The Public Prosecutor,
High Court of Madras.



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G.K.ILANTHIRAIYAN, J.

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