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Crl.O.P.No.3668 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.3668 of 2025

M.Saranya Marimuthu

... Petitioner

Vs.

P.Murugesan

.. Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records relating to the order dated 22.01.2025 made in C.M.P.No.6767 of 2024 in STC No.190 of 2023 on the file of the learned Judicial Magistrate Fast Track No.I of Erode and set aside the same by allowing this criminal original petition.

For Petitioner : Mr.J.Jawahar

For Respondent : No appearance



Crl.O.P.No.3668 of 2025

ORDER

WEB COPY Challenging the order dated 22.01.2025 made in C.M.P.No.6767 of 2024 in STC No.190 of 2023 on the file of the learned Judicial Magistrate Fast Track No.I, Erode, the petitioner had filed the present petition.

2. The learned counsel for the petitioner submitted that the respondent/complainant examined in chief on 05.08.2023 and due to non-availability of certain crucial documents, which are necessary for effective cross-examination, the petitioner was unable to cross-examine PW1 on the said date. Thereafter, the case was posted for defense witness and the the petitioner filed the petition under Section 311 of Cr.PC., in C.M.P.No.6767 of 2024, seeking recall of PW1 for cross-examination. The trial Court, by the impugned order dated 22.01.2025, dismissed the recall petition, stating that the petitioner had already been granted sufficient opportunities and the recall petition filed by the petitioner is an attempt to delay the proceedings. Aggrieved by the same, the petitioner had filed the present petition to grant one more opportunity to put forth his defense. Therefore, he prays for allowing this petition.



Crl.O.P.No.3668 of 2025

WEB COPY

3. Considering the submission made by the learned counsel for the petitioner and in the given facts and circumstances of the case, this Court is of the view that since the petitioner failed to cross examine PW1 on the date of chief examination due to non-availability of certain crucial documents and according to the petitioner now the documents are available with the petitioner, in the interest of justice, it would be appropriate to grant one more opportunity to the petitioner to put fourth his defence. Accordingly, the order dated 22.01.2025 made in C.M.P.No.6767 of 2024 in STC No.190 of 2023 on the file of the learned Judicial Magistrate Fast Track No.I, Erode, is hereby set aside and the petitioner is permitted to cross examine P.W.1 on the date fixed by the trial Court, subject to the petitioner paying a sum of Rs.2,000/- as costs to the respondent. On such payment, the trial Court is directed to fix the date for cross-examination. If the petitioner failed to cross-examine P.W.1 on the date to be fixed by the trial Court, the trial Court is directed to proceed with trial in accordance with law.



Crl.O.P.No.3668 of 2025

WEB COPY

4. With the above directions, this Criminal Original Petition is allowed.

27.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
jd

To

1. The Judicial Magistrate Fast Track No.I,
Erode.
2. The Public Prosecutor,
High Court, Madras.



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Crl.O.P.No.3668 of 2025

G.K.ILANTHIRAIYAN, J.
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Crl.O.P.No.3668 of 2025

27.02.2025