



Crl.O.P.No.5696 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2025

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5696 of 2025

1.K.Senthil Kumar

2.S.Priya

Petitioners

Vs

State through
The Inspector of Police,
V-4, Rajamangalam Police Station,
Chennai - 600 099.
Crime No.298 of 2019

Respondent

Criminal Original Petition filed under Section 528 of BNSS Act, praying to set aside the order passed by the Hon'ble XIII Metropolitan Magistrate Court at Egmore, Chennai, in Crl.M.P.No.78528 of 2024 in C.C.No.12712 of 2022 dated 27.12.2024 and thereby allow the petition by recalling PW-1 to PW-8 in C.C.No.12712 of 2022.

For Petitioners : Mr.E.Muralidharan

For Respondent : Mr.K.M.D.Muhilan
Government Advocate [Crl.side]



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ORDER

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This Criminal Original Petition is filed to set aside the order passed by the XIII Metropolitan Magistrate Court at Egmore, Chennai, in CrI.M.P.No.78528 of 2024 in C.C.No.12712 of 2022 dated 27.12.2024 and to allow the petition by recalling PW-1 to PW-8 in C.C.No.12712 of 2022.

2. The case of the petitioners is that they are facing trial before the XIII Metropolitan Magistrate Court, Egmore, Chennai in C.C.No.12712 of 2022 for an offence under Section 406, 420, 506(i) and 34 of IPC, on the occurrence said to have taken place during the month of September 2017. Further, the allegations against the petitioners are they have collected a sum of Rs.9.5 lakhs for getting placement in Government Organization from various persons. It is submitted that in the above case after framing of charges, the prosecution had examined PW-1 to PW-8 and marked certain documents. The main grievance of the petitioners is that they have engaged an Advocate for cross examination of the above witnesses and the accused could not put forth their defense as they could not collect the bank details, and further the accused had not placed their defense till date. Therefore, the petitioners have filed a



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petition to recall the prosecution witness in Crl.M.P.No.78528 of 2024.

However, the trial Court, without considering the contention of the petitioners, dismissed the petition filed by the petitioners on 27.12.2024. Aggrieved by the same, the petitioners have filed the present petition to cross examine the witnesses on the dates fixed by the Court.

3. The learned Government Advocate appearing for the respondent would submit that already the witnesses PW-1 to PW-8 have been examined in chief. Hence, he prayed for dismissal of this petition.

4. Heard both sides and perused the materials available on record.

5. Considering the above facts and circumstances of the case, this Court feels that the petitioners may be granted one more opportunity to put fourth their defence by cross-examining the witnesses, namely PW1 to 8, subject to terms.

6. In view of the above, this Court passes the following order:

(i) The order dated 27.12.2024 made in Crl.M.P.No.78528 of



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2024 is set aside.

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(ii) The petitioners shall pay Rs.1,000/- each to the witnesses, PW1 to PW8 as costs for cross-examination.

(iii) On such payment made by the petitioners, the trial Court is directed to fix the date for cross-examination of witnesses PW1 to 8.

(iv) If the petitioners fail to cross-examine the witnesses on the date fixed by the trial Court, the trial Court is directed to proceed with the matter further in accordance with law.

7. with the aforesaid terms, this Criminal Original Petition is allowed.

28.02.2025

Neutral Citation: Yes/No

Index: Yes/no

Speaking Order/Non-Speaking Order

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To

1. XIII Metropolitan Magistrate Court,

Egmore, Chennai.

2.The Inspector of Police,
V-4, Rajamangalam Police Station,

Chennai - 600 099.

Crime No.298 of 2019

3.The Public Prosecutor, High Court, Madras.



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G.K.ILANTHIRAIYAN, J

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