



Crl.O.P.No. 4538 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

CORAM:

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

Crl.O.P.No. 4538 of 2025

and

Crl.M.P.No.2895 of 2025

Prabhu

..... Petitioner

Vs

The State By,
The Sub-Inspector of Police,
Karumalaikoodal Police Station,
Salem.

Cr.No.134/2016.

..... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order passed by the Judicial Magistrate No.II, Mettur, dated 04.01.2025 in C.M.P.No.6286 of 2024 in C.C No.95 of 2016.

For Petitioner : Mr.A.Ashok Kumar
For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed challenging the order dated 04.01.2025 passed in C.M.P.No.6286 of 2024 in C.C.No.95 of 2016, by the Judicial Magistrate No.II, Mettur, thereby allowing the

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application filed under Section 311 of Cr.P.C to recall P.W.3.

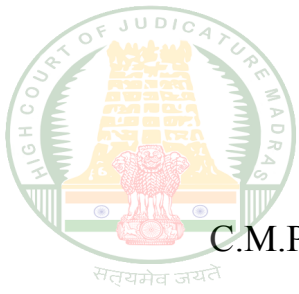
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2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner is an accused in C.C.No.95 of 2016. P.Ws 2 and 3 turned hostile witnesses and therefore, they were cross examined only by the prosecution. Further, the prosecution could not elicit any valuable evidence from P.W.3. After closing their cross examination, the petitioner also cross examined P.W.3. Once again the respondent filed an application under Section 311 of Cr.P.C to recall P.Ws.2 and 3 on the ground that important questions had not been asked. Though the petitioner opposed the application, the Trial Court allowed the application without any reason, merely to provide another opportunity.

4. A perusal of the cross examination of P.Ws.2 and 3 reveals that they turned hostile and were fully cross examined by the prosecution. Therefore, allowing the petition would amount to compelling and threatening the witnesses to depose in favour of the prosecution.

5. In view of the above, the order dated 04.01.2025 passed in



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C.M.P.No.6286 of 2024 in C.C.No.95 of 2016, by the Judicial Magistrate

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Accordingly, it is hereby quashed. However, the Trial Court is directed to dispose of the C.C.No.95 of 2016 within a period of twelve weeks from the date of receipt of a copy of this order.

6. In the result, this Criminal Original Petition stands allowed.

Consequently, connected miscellaneous petition is closed.

19.02.2025

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

1. The Judicial Magistrate No.II,
Mettur.

2. The Sub-Inspector of Police,
Karumalaikoodal Police Station,
Salem.

3. The Public Prosecutor,
Madras High Court,
Chennai.

G.K.ILANTHIRAIYAN, J.

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