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Crl.O.P.No.5187 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2025

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5187 of 2025

and

Crl.M.P.No.3361 of 2025

1. Prabakaran

2. Kannan

....

Petitioners

Vs

State Rep. By

Inspector of Police,

B-3, Variety Hall Road Police Station,

Coimbatore District.

Crime No.412 of 2021

....

Respondent

Prayer: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and set aside order passed by the Learned Judicial Magistrate - V at Coimbatore in Crl.M.P.No.30182 of 2024 in CC No.2227 of 2021 and allow the petitioners to recall PW 1 to 4, PW-7 & 8 to cross examine by the petitioners.

For Petitioners : Mr.D.Velu

For Respondent : Mr.A.Gopinath

Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition has been filed challenging the order dated 24.10.2024 passed in Crl.M.P.No.30182 of 2024 in C.C.No.2227 of 2021 by the Judicial Magistrate No.V, Coimbatore, thereby dismissing the application filed under Section 311 of Cr.P.C. to recall P.Ws 1 to 4, 7 and 8.

2. The petitioner is facing trial in C.C.No.2227 of 2021 for the offence punishable under Section 120(b), 409 of IPC. After the prosecution had examined P.Ws 1 to 8, when the matter was posted for questioning under Section 313 of Cr.P.C. the petitioner filed an application to recall P.Ws. 1 to 4, 7 & 8.

3. On perusal of the records reveals that due to medical reasons, the petitioner was not able to cross examine the prosecution witnesses on the date of the chief examination. Therefore, the petitioner may be given one more opportunity to putforth his defence by way of cross examination.



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4. In view of the above, the order dated 24.10.2024 passed in

WEB CO Crl.M.P.No.30182 of 2024 in C.C.No.2227 of 2021 by the Judicial

Magistrate No.V, Coimbatore, is hereby set aside on condition that the petitioner shall pay a sum of Rs.1,000/- each to the witnesses for cross examination. The Trial Court is directed to fix a date for the cross examination of P.Ws.1 to 4, 7 & 8. If the petitioner fails to cross examine the prosecution witnesses on the date fixed by the Trial Court, the Trial Court is directed to proceed with the trial in accordance with law.

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

Consequently, connected miscellaneous petition is closed.

25.02.2025

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Index:Yes/No

Internet:Yes/No

To

1. The Judicial Magistrate No.V,
Coimbatore.

2. The Inspector of Police,
B-3, Variety Hall Road Police Station,
Coimbatore District.



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3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN,J.

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