



*Crl.O.P.No. 5778 of 2025*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2025

CORAM:

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

Crl.O.P.No. 5778 of 2025

and

Crl.M.P.No.3740 of 2025

R.Sathiya

..... Petitioner

Vs

The State rep by  
The Inspector of Police,  
Aanaikaranchatram Police Station,  
Kollidam,  
Mayiladuthurai District.

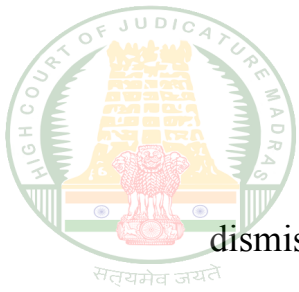
..... Respondent

**PRAYER:** Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records of the order dated 28.11.2024 in Crl.M.P.No.2604 of 2024 in S.C.No.11 of 2020 passed by the learned District and Sessions Judge, Mayiladuthurai, set aside the same.

For Petitioner : Mr.T.Elumalai  
For Respondent : Mr.K.M.D.Muhilan  
Government Advocate (Crl.Side)

**ORDER**

This Criminal Original Petition has been filed challenging the order dated 28.11.2024 passed in Crl.M.P.No.2604 of 2024 in S.C.No.11 of 2020 by the District and Sessions Judge, Mayiladuthurai, thereby



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dismissing the application filed under Section 311 of Cr.P.C. to recall

WEB COPY P.Ws. 1 to 4, 13, 15, 17 to 19.

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

3. The petitioner is an accused in S.C.No.11 of 2020 and is facing charges for the offences under Sections 294(b), 302 and 307 of IPC before the Trial Court. However, the petitioner was absent before the Trial Court and therefore, a non-bailable warrant was issued as against him. While executing the non-bailable warrant, the petitioner was arrested and remanded to judicial custody for more than one year and three months. Due to his prolonged custody, the petitioner was not able to engage any private counsel. Therefore, he was represented through the legal aid counsel. However, the legal aid counsel did not cross examine the prosecution witnesses. After coming out from the jail, the petitioner filed a petition under Section 311 of Cr.P.C seeking to cross examine the prosecution witnesses. The Trial Court partly allowed the petition and permitted the petitioner to cross examine P.Ws.13, 15 and 19 and other witnesses were not permitted to cross examine.

4. A perusal of the records reveals that the petitioner did not



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cross examine the witnesses. Now, the petitioner has restricted his request to cross examine P.Ws. 1 to 4, 13, 15, 17 to 19..

5. In view of the above, the order dated 28.11.2024 passed in CrI.M.P.No.2604 of 2024 in S.C.No.11 of 2020 by the District and Sessions Judge, Mayiladuthurai, is hereby set aside. The petitioner is permitted to cross examine P.Ws. 1 to 4, 13, 15, 17 to 19. The Trial Court is directed to fix a date for their cross examination. If the petitioner fails to cross examine P.Ws. 1 to 4, 13, 15, 17 to 19 on the date fixed by the Trial Court, the Trial Court is directed to proceed with the trial in accordance with law.

6. In the result, this Criminal Original petition is allowed. Consequently, connected miscellaneous petition is closed.

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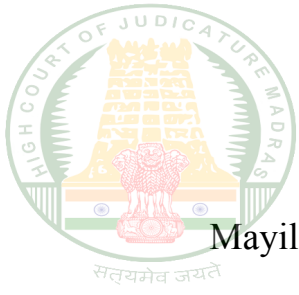
Index : Yes/No  
Neutral citation : Yes/No  
Speaking/non-speaking order  
Lpp

To

1. The District and Sessions Judge,  
Mayiladuthurai.

2. The Inspector of Police,  
Aanaikaranchatram Police Station,  
Kollidam,

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Mayiladuthurai District.

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3. The Public Prosecutor,  
High Court, Madras.



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**G.K.ILANTHIRAIYAN, J.**

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