



CrI.O.P.No.8547 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2025

CORAM:

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

CrI.O.P.No.8547 of 2025

and

CrI.M.P.No.5572 of 2025

J.Mathiyalagan

... Petitioner

Vs.

The Deputy Superintendent of Police,
Crime Branch CID, Cyber Crime Cell,
Chennai-2.

... Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C, to issue a direction to the Hon'ble XI Metropolitan Magistrate Court, Saidapet, Chennai to number the Recall Petition filed under Section 348 of BNSS (311 of Cr.P.C) and permit the petitioner to cross examine the P.W.18 and 19 in accordance with law in C.C.No.2732 of 2024, by allowing the present criminal original petition.

For Petitioner : Mr.M.Mohamed Riyaz
for Mr.MA.P.Thangavel

For Respondent : Mr.A.Gopinath,
Government Advocate (CrI.Side)



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ORDER

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This Criminal Original Petition has been filed seeking a direction to the learned XI Metropolitan Magistrate Court, Saidapet, Chennai to number the Recall Petition filed under Section 348 of BNSS (311 of Cr.P.C) and permit the petitioner to cross examine P.Ws.18 and 19 in accordance with law in C.C.No.2732 of 2024.

2. The petitioner is an accused and he is facing charges for the offence under Sections 469 and 509 of IPC and under Sections 66 and 67 of IT Act and under Section 4 of Tamilnadu Prohibition of Women Harassment Act in C.C.No.2732 of 2024.

3. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate (Crl.Side) appearing for the respondent police and perused the materials available on record.

4. A perusal of " A " Diary reveals that the petitioner has examined all the prosecution witnesses. On 31.12.2024, as per the proceeding of the Hon'ble High Court in ROC.No.41226/2021/G4, dated 02.05.2024 and the proceeding of the learned Chief Metropolitan Magistrate, dated

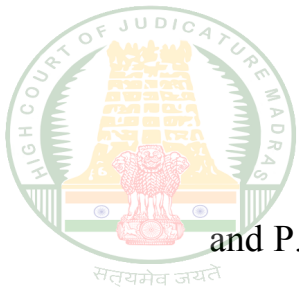


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14.05.2024, the entire case has been transferred from Additional Chief Metropolitan Magistrate Court, Egmore, Chennai to XI Metropolitan Magistrate Court, Saidapet, Chennai. Again the case was re-transferred to the learned Additional Chief Metropolitan Magistrate Court, Egmore and the same was once again re-transferred to the XI Metropolitan Magistrate Court, Saidapet, Chennai, it has got renumbered as C.C.No.2732 of 2024.

5. On 31.12.2024, it was taken on file by the trial court and it is stated that the " B " property was not yet received. The petitioner had no knowledge and failed to appear before the XI Metropolitan Magistrate Court, Saidapet, Chennai on 31.12.2024. Hence Non Bailable Warrant was issued against him and the case was posted on 18.02.2025. The accused appeared on 27.01.2025 and filed the petition for advance hearing and surrender along with warrant recall petition and the same was allowed on the same day and ordered fresh summons to P.W.18 and P.W.19 and the matter was adjourned to 13.02.2025. Thereby, the non bailable warrant issued against the petitioner was recalled.

6. Later, the matter was posted for cross-examination of P.W.18



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and P.W.19 and so many times summons were issued. Finally, they were present on 10.03.2025 and were partly examined in chief. Thereafter, the matter was adjourned to 17.03.2025 for further cross examination of P.W.18 and P.W.19. However, on that date, the petitioner could not be able to cross-examine them and thereby, the prosecution side witnesses is closed and the matter is posted for further proceedings.

7. Even before that, the petitioner had already filed a petition to re-call P.W.14 and the same was pending for adjudication. Therefore, the petitioner once again filed a petition to re-call P.W.18 and P.W.19 and it is pending. Therefore, one more opportunity was given to the petitioner to cross-examine P.W.18 and P.W.19 but they were not cross-examined.

8. In view of the above, the trial Court is directed to number the petition filed by the petitioner to re-call the witnesses P.W.18 and P.W.19 on file, consider the same and fix the date for the cross-examination of P.W.18 and P.W.19. If the petitioner fails to cross-examine P.W.18 and P.W.19 on the date fixed by the trial court, the trial Court is directed to proceed with the trial and pass orders on merits and in the manner known to law within a period of four months from the date of receipt of a copy



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of this order.

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9. With the above direction, this Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

21.03.2025

Vv

To

1. The XI Metropolitan Magistrate Court,
Saidapet, Chennai.
2. The Deputy Superintendent of Police,
Crime Branch CID, Cyber Crime Cell,
Chennai-2.
3. The Public Prosecutor,
High Court of Madras,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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