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Crl.O.P.No.9727 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2025

CORAM:

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

Crl.O.P.No.9727 of 2025

and Crl.MP.No.6447 of 2025

1.T.Ravi

2.R.Varunkumar

... Petitioners

Vs

State represented by
The Inspector of Police,
Crime Branch,
V-4, Rajamangalam Police Station,
Kolathur, Chennai – 600 099.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to set aside the order passed in Crl.M.P.No.69 of 2024 dated 10.01.2024 in C.C.No.5353 of 2023 passed by Learned XIII Metropolitan Magistrate Court at Egmore, Chennai and consequently recall the PW1 for cross examination by the petitioner herein.

For Petitioner : Mr.A.M.Venkata Krishnan

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.side)



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ORDER

This Criminal Original Petition has been filed to set aside the order dated 10.01.2025, passed by the learned XIII Metropolitan Magistrate Court, Egmore, Chennai in CrI.M.P.No. 69 of 2025 in C.C.No.5353 of 2023 thereby consequently recall P.W.1 for the purpose of cross examination.

2. The learned counsel for the petitioner submitted that the petitioners are the accused in C.C.No.5353 of 2023 and facing trial for the offence under Sections 294(b), 323 and 506(ii) of IPC before the XIII Metropolitan Magistrate Court, Egmore, Chennai. Totally there are six witnesses, out of which, four witnesses have been examined by the prosecution. Due to the inconvenience of the learned counsel appearing for the petitioner, while examining P.W.1 in chief, the petitioner could not cross-examine P.W.1, on the date of chief examination itself. Further he submitted that P.W.2 to P.W.4 were already cross examined. The petitioner did not cross examine PW.1 on two occasions. However, the petitioner filed an application under Section 311 of Cr.P.C., to recall PW.1 and the same was allowed and even then, the petitioner has not cross examined PW.1. Therefore, one more opportunity was sought, for the petitioners to put forth their defence. Hence, he has prayed to allow this petition.



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3.The learned Government Advocate (CrI.Side) would submit that there are totally 6 witnesses and the case is posted for further examination of PW.5 and PW.6. Hence, he has prayed for the dismissal of this petition.

4.Heard the learned Counsel appearing on either side and perused the materials placed on record.

5. The petitioners are the accused in this case. There are totally six witnesses in this case. Though the petitioners have already cross examined P.W.2 to P.W.4., they did not cross examine PW.1, and the case is posted for examination of further witnesses. The petitioners who were arrayed as accused in Sessions case, has to necessarily cross examine PW-1.

6. Considering the facts and circumstances of the case, this Court feels that the petitioners shall be given one more opportunity to put forth their defence. Accordingly, the order dated 10.01.2025, passed by the learned XIII Metropolitan Magistrate Court, Egmore, Chennai, in C.C.No.5353 of 2023, is hereby set aside, on the condition that the petitioners shall pay Rs.5,000/- to PW.1 for cross examination of PW.1. On the date fixed by the trial Court, if the



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petitioners failed to cross-examine P.W.1, the trial Court is directed to proceed further with trial in accordance with law.

7. With the above directions, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

02.04.2025

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

drl

To

1. The XIII Metropolitan Magistrate Court,
Egmore, Chennai
2. The Inspector of Police,
Crime Branch,
V-4, Rajamangalam Police Station,
Kolathur, Chennai – 600 099.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

drl

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