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Crl.O.P.No.10698 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.10698 of 2025

and

Crl.M.P.No.7143 of 2025

Dr.P.Tennyson

... Petitioner

Vs.

1. The State of Tamil Nadu Rep.by
The Inspector of Police,
Katpadi Police Station,
Vellore District.

2. N.Hephziba

3. Joyce Christy Yagappan

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to set aside the order dated 21.03.2025 in Crl.M.P.No.195 of 2025 in C.C.No.26 of 2022 on the file of the learned Judicial Magistrate, Katpadi.

For Petitioner : Mr.P.Kannan

For Respondents : Dr.C.E.Pratap
Government Advocate (Crl.Side)
for R1
No appearance for R2



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ORDER

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The Criminal Original Petition is filed to set aside the order dated 21.03.2025 passed in Crl.M.P.No.195 of 2025 in C.C.No.26 of 2022 by the learned Judicial Magistrate, Katpadi.

2. Learned counsel for the petitioner submitted that based on the complaint given by the petitioner herein, the first respondent-Police registered a case in Crime No.558 of 2021 against respondents 2 and 3 herein/accused and also filed a charge-sheet before the learned Judicial Magistrate, Katpadi and the same was taken on file in C.C.No.26 of 2022 and trial commenced. While that being so, at the time of examination of P.W.7 and P.W.9 on 06.11.2024 and 18.12.2024, respectively, the counsel on record for the complainant was held up in another Court, despite their junior counsel sought adjournment for some other day, the learned Magistrate did not consider their request and the learned Magistrate himself examined P.W.7 and P.W.9 in chief. He further submitted that P.W.9 testimony contained several contradictions regarding the delay in registering the FIR, filing charge sheet/final report, the scene of occurrence, number of accused involved and the theft



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of gold chain and in the alteration of charges order passed by the learned Magistrate on Crl.M.P.No.3218 of 2022 in C.C.No.26 of 2022 for alteration of charges, which requires clarification and hence, the petitioner filed a petition invoking Section 311 Cr.P.C., seeking to re-call and re-examine of P.W.7 and P.W.9 in Crl.M.P.No.195 of 2025. However, the learned Magistrate without appreciating the facts of the case and dismissed the petition on 21.03.2025.

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

4. Despite service of notice on the second respondent and her name is being printed in the cause list, none appeared on the side of the second respondent either in person or through counsel.

5. It seems that the chief examination of P.W.7 and P.W.9 were conducted on 06.11.2024 and 18.12.2024. The main allegation of the petitioner is that without the presence of the counsel on record for the



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petitioner herein/*de-facto* complainant, the witnesses P.W.7 and P.W.9 were examined in chief by the learned Magistrate. However, challenging the said examination of P.W.7 and P.W.9, the petitioner has not filed any petition for eschewing their evidence, but after one month from the date of examination of P.W.7 and P.W.9, the petitioner filed the petition for re-call and re-examination of P.W.7 and P.W.9.

6. It is pertinent to state that the re-examination of witnesses is not an automatic process. Re-examination has to be done after getting prior permission from the Court to clarify ambiguity during the cross-examination. In the case on hand, the petitioner has not re-examined witnesses on the same day and he has also not challenged the chief examination of P.W.7 and P.W.9, however, after one month of their examination, he filed the re-call petition which was also came to be dismissed on 21.03.2025.

7. Taking into consideration the facts and circumstances, this Court does not find any perversity or infirmity in the order passed by the learned Magistrate and there is no merit in the petition. Accordingly, the



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Criminal Original Petition is dismissed. Consequently, connected
miscellaneous petition is closed.

09.06.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

1. The Judicial Magistrate,
Katpadi.
2. The Inspector of Police,
Katpadi Police Station,
Vellore District.
3. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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