



CrI.O.P.No.13360 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2025

CORAM:

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

CrI.O.P.No.13360 of 2025

1. Govindasamy
2. Jamuna Rani

.... Petitioners

Vs

The State rep by its
The Inspector of Police
Uthukuli Police Station.
(Crime No.284 of 2018).

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to direct the learned District Munsif Cum Judicial Magistrate, Uthukuli either to eschew the chief examination (evidence) of the PW1 and PW2 or to issue witness warrant to secure them for the purpose cross examination in due compliance to the order dated 22.12.2020 in C.M.P.No.819 of 2020 in C.C.No.280 of 2019.

For Petitioners : Mr.M.Guruprasad
For Respondent : Mr.A.Gopinath
Government Advocate (CrI.Side)

ORDER

This Criminal Original Petition has been filed seeking a direction to the District Munsif-cum-Judicial Magistrate, Uthukuli, to



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eschew the evidence of PWs.1 and 2 for non-compliance with the order passed in C.M.P.No.819 of 2020 in C.C.No.280 of 2019.

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

3. The petitioners are the accused in C.C.No.124 of 2018 and facing charges under Sections 294(b), 323, 324, 354C, 506(ii) of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act. The prosecution had examined P.Ws.1 to 6. However, at the time of chief examination, the petitioners were unable to cross examine the said prosecution witnesses. Consequently, the petitioners filed an application in C.M.P.No.819 of 2020 seeking to recall P.Ws. 1 to 6 for cross examination. The said application was allowed by an order dated 22.12.2020. While P.Ws.4 to 6 appeared before the Trial Court and were duly cross examined, P.Ws. 1 and 2 have not appeared before the Trial Court for cross examination to date. Therefore, the petitioners seek to eschew the evidence of P.Ws.1 and 2.



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4. Considering the fact that an opportunity was already granted and to ensure a fair trial, this Court is not inclined to eschew the evidence of P.Ws.1 and 2 at this stage and instead, is inclined to grant one more opportunity for their appearance and cross examination before the Trial Court.

5. In view of the above, the Trial Court is directed to order the presence of P.Ws.1 and 2 on a specific date to be fixed by the Trial Court. If P.Ws 1 and 2 fail to appear on the date fixed by the Trial Court for cross examination by the petitioner, the Trial Court is directed to eschew the evidence of P.Ws.1 and 2 and proceed with the trial in accordance with law.

6. With the above direction, this Criminal Original Petition stands disposed of.

29.04.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

1. The District Munsif-cum-Judicial Magistrate,
Uthukuli.
2. The Inspector of Police,
Uthukuli Police Station.
3. The Public Prosecutor,
High Court of Madras,
Chennai.

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