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Crl.O.P.No.12192 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

CORAM:

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

Crl.O.P.No.12192 of 2025

and

Crl.M.P.No.8138 of 2025

1.Balamurugan
2.Pachamuthu
3.Pazhaniyammal

.... Petitioner

Vs

State represented by
The Inspector of Police,
Theevattipatti Police Station,
Salem District

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order dated 18.11.2024 in Crl.M.P No.1801 of 2024 in S.C No.279 of 2016 on the file of the District and Sessions Mahila Court, Salem and consequently allow the Crl.M.P No.1801 of 2024 in S.C No.279 of 2016 as prayed for.

For Petitioner : Mr.M.Velan

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



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ORDER

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This Criminal Original Petition has been filed challenging the order dated 18.11.2024 passed in Crl.M.P.No.1801 of 2024 in S.C.No.279 of 2016 by the District and Sessions Judge, Mahila Court, Salem, thereby dismissing the application filed under Section 311 of Cr.P.C to recall P.Ws. 1 to 5 for further cross examination.

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

3. The petitioners are accused in the complaint lodged by the respondent in S.C.No.279 of 2016 and are facing charges for the offences under Sections 498A and 304B of IPC. So far, the prosecution had examined P.Ws.1 to 5 out of a total of 19 witnesses. However, the petitioners did not cross examine the prosecution witnesses on the date of their chief examination and also failed to file an application to defer the cross examination. Thereafter, the petitioner filed an application under Section 311 of Cr.P.C. seeking to recall P.Ws. 1 to 5 for cross examination.

4. Admittedly, the petitioners did not cross examine P.Ws. 1 to 5. In order to purforth their defence, they may be given one more opportunity to cross examine P.Ws.1 to 5.



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4. In view of the above, the order dated 18.11.2024 passed in Crl.M.P.No.1801 of 2024 in S.C.No.279 of 2016 by the District and Sessions Judge, Mahila Court, Salem, is hereby set aside on condition that the petitioners shall pay a sum of Rs.2,000/- each to P.Ws. 1 to 5. The Trial Court is directed to fix a date for cross examination of P.Ws.1 to 5. If the petitioners fail to cross examination the said prosecution witnesses on the date fixed by the Trial Court, the Trial Court is directed to proceed with the trial and complete the same within a period of six months from the date of receipt of a copy of this order.

5. With the above direction, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

22.04.2025

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

To
1. The District and Sessions Judge,
Mahila Court, Salem.

2. The Inspector of Police,
Theevattipatti Police Station,
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2. The Public Prosecutor,
Madras High Court,
Chennai.

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