



Crl.O.P.No.16927 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

Crl.O.P.No.16927 of 2025

1. Kuppusamy
2. Om Prakash
3. Manickam

...Petitioners

Vs.

The State rep.by
The Inspector of Police,
Vigilance and Anti-Corruption,
Chennai.

...Respondent

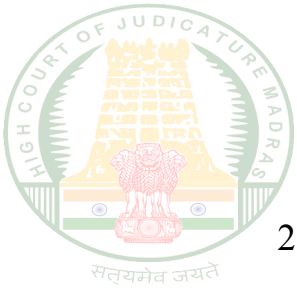
Prayer: Criminal Original Petition filed under 528 of BNSS, to set aside the order passed by the Special Judge and learned Chief Judicial Magistrate, Chengalpet, in Crl.M.P.No. 46 of 2025 dated 12.05.2025.

For Petitioners : Mr.P.Ezhil Nilavan

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The Criminal Original Petition has been filed challenging the order passed in Criminal M.P. No. 46 of 2025 in Special C. No. 6 of 2015 dated 12.05.2025.



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2. The said application was filed seeking recall of P.W.3, *Mr.A.G. Gopal*, who is the defacto complainant, and P.W.32, *Mr.SivapathaSekaran*, the Investigating Officer.

3. As far as P.W.3 is concerned, even though he was originally cross examined, the learned counsel for the petitioner submits that P.W.3 had filed repeated writ petitions in respect of the very same transactions and the orders passed in W.P. No. 20382 of 2013, W.P. No. 530 of 2016, W.P. No. 20156 of 2016, and W.P. No. 3661 of 2016 have to be put to P.W.3. The accused will lose a valuable opportunity unless those orders are put to P.W.3, the defacto complainant. The learned counsel submits that although these could have been put to the witness at the time of the original cross examination, the orders were not in the possession of the petitioner and therefore, one more opportunity is sought.

4. As far as P.W.32, *Mr. SivapathaSekaran*, the Investigating Officer, is concerned, when the said witness was in the box, for a particular question put during the cross-examination, the witness stated that he would come with the appropriate records and that the cross-examination could be continued thereafter. However, when the matter was posted for continuation, it so



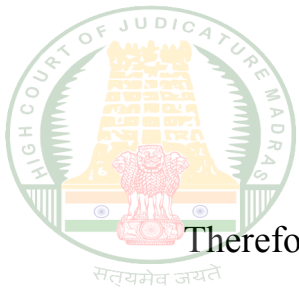
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happened that on one occasion P.W.32 was absent, on another occasion there was a boycott, and on a third occasion there was a default on the part of the petitioner. The counsel was ill, and only because of that the cross examination was not completed and was therefore closed. Hence, one more opportunity is sought.

5. Opposing the submissions, the learned Additional Public Prosecutor appearing for the respondent submits that it can be seen from the order of the trial Court itself that on more than five occasions, the Investigating Officer was not cross-examined and therefore, the cross-examination was closed. As far as P.W.3 is concerned, the cross-examination is already over, and he is also an aged witness. The application is now filed only to protract the proceedings.

6. I have considered the rival submissions made on either side and perused the material records of the case.

7. The relevant orders that are sought to be put to P.W.3 are produced before this Court and it can be seen that all the orders relate to the same land of 1.06 acres comprised in Mannivakkam Village, Chengalpattu Taluk.



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Therefore, I am of the view that one opportunity can be granted to the petitioner in respect thereof. The undertaking made by the learned counsel for the petitioner, that once the witness is present on the next occasion, they will not seek any further time and will confine their further cross-examination only with reference to the marking of the documents and questioning the witness relating to the orders alone, is recorded and they shall not protract the proceedings in any manner. Similarly, one more opportunity is granted in respect of the Investigating Officer also. The case is now stated to be posted on 20.06.2025 for further hearing.

8. In view thereof, this Criminal Original Petition is allowed on the following terms:

(i) The order passed by the learned Special Judge/Chief Judicial Magistrate, Chengalpattu, dated 12.05.2025, made in Criminal M.P. No. 46 of 2025, shall stand set aside and Criminal M.P. No. 46 of 2025 shall stand allowed on the following terms:-

(ii) On the next occasion, that is, on 20.06.2025 or any date sooner thereafter when P.W.3 as well as P.W.32 are present, the petitioner shall cross examine the said witnesses on the same day.



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WEB COPY(iii) As far as P.W.3 is concerned, the further cross examination shall relate only to the orders of the writ petitions mentioned above. The cross-examination shall be completed on the same day.

(iv) Needless to mention, the matter cannot be protracted any further, and the further proceedings shall be held as expeditiously as possible. No costs.

10.06.2025

Neutral Citation: Yes/No
nsl



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D.BHARATHA CHAKRAVARTHY, J.

nsi

To

1. The Inspector of Police,
Vigilance and Anti-Corruption,
Chennai.
2. The Additional Public Prosecutor,
Madras High Court.
3. The Special Judge / Chief Judicial Magistrate,
Chengalpattu.

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