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CrI.O.P.No.17346 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2025

Coram:

**THE HONOURABLE MR. JUSTICE P.VELMURUGAN**

CrI.O.P.No.17346 of 2025

Suseela

... Petitioner

Vs.

State Rep. by  
Inspector of Police  
D2-Selvapuram Police Station  
Coimbatore

... Respondent

**Prayer:** Criminal Original Petition filed under Section 528 of BNSS, 2023 to call for the records and set aside the order dated 07.04.2025 in CMP No.6 of 2025 in C.C.No.2385 of 2019 passed by the Judicial Magistrate No.V, Coimbatore.

|                |                                 |
|----------------|---------------------------------|
| For Petitioner | : Mr.P.Thinesh                  |
| For Respondent | : Mr.S.Vinoth Kumar             |
|                | Government Advocate (CrI. Side) |



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## ORDER

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This Criminal Original Petition has been filed by the petitioner to set aside the order dated 07.04.2025 in CMP No.6 of 2025 in C.C.No.2385 of 2019 passed by the Judicial Magistrate No.V, Coimbatore.

2. The case of the petitioner is that the petitioner is facing trial in C.C.No.2385 of 2019 on the file of the Judicial Magistrate No.V, Coimbatore. Pending trial, the petitioner filed a petition in CMP No.6 of 2025 to recall P.W.5, P.W.6 and P.W.8 for the purpose of cross examination. The said petition was dismissed by order dated 07.04.2025. Hence, the present petition is filed.

3. The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that the already the petitioner had filed a petition under Section 311 Cr.P.C. in CMP No.40706 of 2023 to recall P.W.1 to P.W.7 and subsequently, P.W.1 to P.W.4 and P.W.7 were cross examined. However, the summons issued to P.W.5 and P.W.6 got returned as 'No Such Person' and 'address cannot be located'. Once again the petitioner filed the petition under



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Section 311 Cr.P.C. to recall P.W.5 and P.W.6 along with P.W.8. Though P.W.8

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was not cross examined, the petitioner had not sought for recall of P.W.8 in the earlier petition filed under Section 311 Cr.P.C. and already the summons issued to P.W.5 and P.W.6 were returned inspite of taking steps by all possible means and therefore, the learned Magistrate rightly dismissed the petition. Therefore, there is no merits in this petition.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (CrI. Side) appearing for the respondent police and also perused the materials available on record.

5. It is seen that P.W.5 and P.W.6 were examined on 13.03.2023 and P.W.8/Investigating Officer was examined on 01.09.2023 itself. Already, the summons taken to P.W.5 and P.W.6 were returned for the reasons 'address could not be located. Though the reasons stated by the learned counsel for the petitioner for recall of witnesses after a period of two years are not satisfied, however in order to give one more opportunity to the petitioner to cross



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examine the Investigating Officer/P.W.8, the order passed by the Magistrate

dated 07.04.2025, is set aside to the extent to recall P.W.8 alone.

6. The Magistrate is directed to issue summons to P.W.8 and fix a date for cross examination. On appearance of P.W.8, the petitioner is directed cross examine the witness on the same day failing which, the petitioner will loss his right of cross examination.

7. With the above directions, this Criminal Original Petition is disposed of.

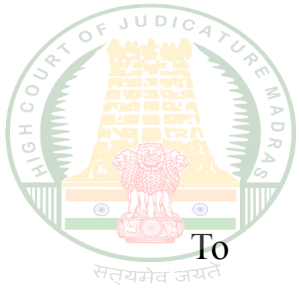
16.06.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

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1. The Judicial Magistrate No.V,  
Coimbatore.
2. Inspector of Police  
D2-Selvapuram Police Station  
Coimbatore
3. The Public Prosecutor  
High Court of Madras, Chennai



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**P.VELMURUGAN. J.**

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