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Crl.O.P.No.18082 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.18082 of 2025

and

Crl.M.P.No.11874 of 2025

Muniraj @ Thuppa

... Petitioner

Vs.

State by Inspector of Police,
Thally Police Station,
Krishnagiri District.

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 BNSS, 2023, to set aside the order passed in Crl.M.P.No.967 of 2025 in S.C.No.109 of 2021 dated 29.05.2025 on the file of the learned Chief Judicial Magistrate, Krishnagiri, Krishnagiri District and direct the trial Court to permit the petitioner to take defence side evidence in the trial Court.

For Petitioner : Mr.M.P.Saravanan

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition has been filed to set aside the order passed in Crl.M.P.No.967 of 2025 in S.C.No.109 of 2021 dated 29.05.2025 on the file of the Chief Judicial Magistrate, Krishnagiri, Krishnagiri District and direct the trial Court to permit the petitioner to take defence side evidence in the trial Court.

2. It is seen that petitioner/A3 is facing trial in S.C.No.109 of 2021 for the offences under Sections 147, 148, 149 and 307 IPC before the learned Chief Judicial Magistrate, Krishnagiri. On the side of the prosecution, totally 10 witnesses were examined. It is the contention of the petitioner that P.W.2 one Nagaraj was examined-in-chief on 06.02.2025, and on that day, the petitioner/A3 was not yet ready with important document to cross examine P.W.2 and therefore, cross examination of P.W.2 could not be done. Hence, the petitioner had taken out a petition in Crl..M.P.No.967 of 2025 invoking Section 348 of the BNSS, 2023 to re-call P.W.2 for cross examination. The said petition came to be dismissed by the learned Magistrate on 29.05.2025 on the ground that though sufficient opportunity was given to the petitioner to



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defend his case, he failed to avail that.

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3. Learned counsel for the petitioner submitted that in spite of assigning sufficient cause to recall PW.2 who was examined in chief, but could not be cross examined due to lack of important documents, and the Court below without considering the reasons and also without providing sufficient opportunity, dismissed the petition. Learned counsel further submitted that without cross examination of P.W.2, the petitioner/A3 and others will suffer irreparable loss and hardship.

4. Heard both sides and perused the materials available on record.

5. It is seen from the records that on the side of the prosecution, totally 10 witnesses were examined and sufficient opportunity was given to the petitioner to cross-examine the prosecution witnesses and the petitioner also cross-examined P.W.2. After completion of examination of prosecution witnesses, in order to fill up the lacuna and also in order to drag on the proceedings, the petitioner filed the petition in CrI.M.P.No.967 of 2025 to re-call P.W.2 for cross examination. The learned Magistrate had elaborately discussed about assigning justifiable reason for dismissing the petition and proceeded with the case further.



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This Court, while going through the order passed by the learned Magistrate, does not find any perversity and also there is also no valid reason to set aside the order of the Court below, since sufficient opportunity was given to the petitioner to extensively cross examine P.W.2 and the petitioner also cross examined P.W.2 and there is no reason to interfere with the order passed by the learned Magistrate. Therefore, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

01.07.2025

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

1. The Chief Judicial Magistrate,
Chief Judicial Magistrate Court,
Krishnagiri, Krishnagiri District.
2. The Inspector of Police,
Thally Police Station,
Krishnagiri District.
3. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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