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Crl.O.P.No.19936 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2025

CORAM

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

Crl.O.P.No.19936 of 2025

1.S.Chandrakumar
2.Priya Chandrakumar

... Petitioners

Vs

State represented by
Inspector of Police
Central Crime Branch, Thousand Lights
Chennai District
Crime No.431 of 2007

... Respondents

Prayer :- Criminal Original Petition filed under under Section 528 of BNSS to set aside the order made in Crl.M.P.No.6 of 2025 dated 13.06.2025 on the file of the learned XI Metropolitan Magistrate / XI Judicial Magistrate, Saidapet, Chennai.

For Petitioners : Mr.N.Arun Kumar

For Respondents : Dr.C.E.Pratap
Government Advocate (Crl.Side)

ORDER



This Criminal Original Petition is directed against the order dated 13.06.2025 passed in Crl.M.P.No.6 of 2025 dated 13.06.2025 on the file of the XI Metropolitan Magistrate, Chennai. By the said order, the application that is filed by the petitioners / accused 1 and 2 for recalling of P.Ws.1 to 11 for cross examination is rejected by the Trial Court.

2. It can be seen that when all these witnesses were examined during the trial, upto P.W.6 the earlier counsel had cross examined the witnesses. Thereafter, no cross examination was made. Mr.Arun Kumar, learned counsel for the petitioners would submit that, firstly there is a change of counsel in the matter. The earlier counsel had not cross examined P.Ws.1 to 6 with reference to material aspects, also with reference to P.Ws.7 to 11, an opportunity can be granted to the accused.

3. Per contra, the learned Government Advocate (Criminal Side) would submit that when there is a direction by this Court to complete the trial within six months, the accused without any reason omitted to cross examine the witnesses 7 to 11 and with reference to P.Ws.1 to 6, already the witnesses were extensively cross examined by the erstwhile counsel.

4. I have considered the rival submissions made by both sides and have perused the materials placed on record.



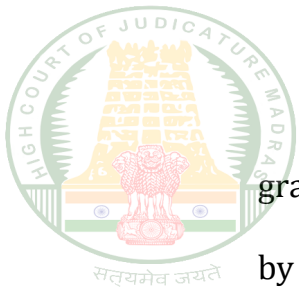
5. As far as the witnesses P.Ws.1 to 6 are concerned, the very object of Section 311 Cr.P.C is to provide an opportunity for the accused to put forth their defence. When the counsel cross examine them in detail, the application under Section 311 cannot be used for the purpose of action replay or to cross examine from a different perspective merely because a new counsel who has come on record thinks in a different line. That cannot be permitted.

6. As far as the cross examination of P.Ws.7 to 11 is concerned, even though the view taken by the trial Court cannot be found fault with considering the circumstance that there is a direction to complete the trial, only considering the fact that the opportunity of the defence to cross examine is a vital opportunity, which cannot be denied in toto, I am of the view of that one more opportunity can be granted for the petitioner to cross examine P.Ws.7 to 11.

7. In view thereof, this Criminal Original Petition is disposed of with the following directions:

(a) With reference to the prayer that is made to set aside the order in Crl.M.P.No.6 of 2025 dated 13.06.2025, the same shall stand negatived, inasmuch as P.Ws.1 to 6 are concerned, as they have already been cross examined.

(b) As far as P.Ws.7 to 11 are concerned, one more opportunity is



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granted to the petitioners herein. On the dates that are intimated by the Trial Court, P.Ws. 7 to 11 can be summoned and appropriate costs with reference to the batta of the witnesses shall be paid by the petitioners. On such dates when the witnesses are present, without taking any adjournment, the cross examination shall be completed.

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

11.07.2025

Neutral citation : No
KST

To

1. The XI Metropolitan Magistrate
Saidapet, Chennai
2. The Inspector of Police
Central Crime Branch, Thousand Lights
Chennai District
Crime No.431 of 2007
3. The Public Prosecutor
High Court of Madras.



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D. BHARATHA CHAKRAVARTHY, J.

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