



CrI.O.P.No.21438 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.21438 of 2025

1. T.Parthiban
2. Gowri
3. Banumathi
4. Nalini

... Petitioners

Vs.

Station House Officer,
The State Rep.by SHO
Assistant Superintendent of Police,
Virudhachalam Sub Division,
Karuvepplankurchi Police Station,
Crime No.63 of 2019.

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 BNSS, 2023, to call for the records and set aside the order passed in CrI.M.P.No.701 of 2025 in S.C.No.299 of 2019 dated 19.06.2025 on the file of the District Sessions Judge, Mahila Court, Cuddalore and consequently issue direction to recall the witnesses P.W.1 and P.W.12 for the purpose of further cross examination and summon the rough notes related to post mortem certificate No.192/2019 dated 18.03.2019.



Crl.O.P.No.21438 of 2025

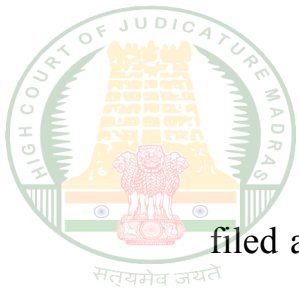
WEB COPY

For Petitioner : Mr.V.Jayaprakash Narayanan
For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)

ORDER

The Criminal Original Petition is filed challenging the dismissal order dated 19.06.2025 passed in Crl.M.P.No.701 of 2025 in S.C.No.299 of 2019 by the Sessions Judge, Mahila Court, Cuddalore and consequently issue a direction to re-call the witnesses P.W.1 and P.W.12 for the purpose of further cross-examination and summon the rough notes related to post mortem certificate No.192/2019 dated 18.03.2019.

2. The petitioners are facing trial in S.C.No.299 of 2019 on the file of the District Sessions Judge, Mahila Court, Cuddalore for the offences punishable under Sections 304-B, 302, 498-A and 201 IPC. In the sessions case, trial commenced and on the side of the prosecution, totally 14 witnesses were examined and 15 exhibits and 3 material objects were marked and the case is posted for cross examination of defence side witnesses on 18.07.2025. When things stood as above, the petitioners



CrI.O.P.No.21438 of 2025

filed a petition in CrI.M.P.No.701 of 2025 invoking Section 311 Cr.P.C.

read with Section 91 Cr.P.C., to re-call P.W.1 and P.W.12 for further cross examination and to summon rough notes related to post-mortem No.192 of 2019, dated 18.03.2019. The learned trial Judge, after perusing the entire records came to the conclusion that P.W.1 and P.W.12 were examined in chief on 25.02.2021 and 01.04.2022 and on the same day itself, they were cross examined and earlier, the petitioner filed a petition in CrI.M.P.No.1568 of 2024 seeking to summon rough notes used during post-mortem, was negatived by the orders of the Court on 20.02.2025 and without challenging the said order, the petitioner has filed the present petition, which would show the delaying tactics and attitude of the petitioners/accused, and dismissed the petition on 19.06.2025. Challenging the same, the present petition is filed by the petitioners.

3. It is the contention of the learned counsel for the petitioners that P.W.1 – Jothi, who is the mother-in-law of the first petitioner herein, had been convicted for life imprisonment by the Special Court for trial of Cases under SC/ST Act in S.C.No.3 of 2019, which has been confirmed by the Hon'ble Supreme Court. While so, the said P.W.1 had frequently demanded money from the first petitioner for defending the above

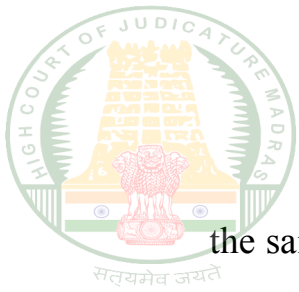


Crl.O.P.No.21438 of 2025

WEB.COM

criminal case pending against her and the petitioner also extended financial assistance on several times and when he refused to give more money, P.W.1 made a false accusation by using the natural death of her daughter and threatened the petitioners and had lodged fake complaint against them. However, during cross examination, P.W.1 has concealed before the Court and in their evidence, the substantial amounts were received from the first petitioner and hence, the first petitioner wants to cross examine P.W.1 further, with appropriate evidence. Further, P.W.12 Medical Professor has failed to mention the rough notes - document, which was prepared during the autopsy No.192/2019 dated 18.03.2019 in her testimony before the Court. To prove the innocence of the petitioners, it is just and necessary to cross examine P.W.1 and P.W.12 and summon the rough notes related to post-mortem certificate No.192/2019 dated 18.03.2019, otherwise, the petitioners will suffer irreparable loss and hardship.

4. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent submitted that, earlier, the petitioner filed a petition invoking Section 233(1)(2)(3) Cr.P.C. seeking issuance of summons to defence witness and to produce case related documents, and



CrI.O.P.No.21438 of 2025

the said petition was negatived by the Court below earlier on 20.02.2025.

WEB COPY

Without challenging the said petition, the petitioner again filed the petition invoking Section 311 Cr.P.C to re-call P.W.1 and P.W.12 for further cross examination. The trial Court, while dismissing the petition, had given valid reasons as to why he had not allowed the petition. Therefore, there is no merit in the present petition and the same is liable to be dismissed.

5. It is seen from the records that, in the instant case, on the side of the prosecution, so far, 14 witnesses were examined and 15 Exhibits and 3 materials objects were marked and the case is posted for cross-examination of defence witnesses on 18.07.2025. At that stage, the petitioner filed a petition to re-call P.W.1 and P.W.12 for further cross examination and also to summon certain documents. Admittedly, P.W.1 and P.W.12 were examined in chief on 25.02.2021 and 01.04.2022 and the petitioner/accused had also extensively cross examined those witnesses on the same day itself. When once the petitioner had given sufficient opportunities for ordeal of trial, he cannot file petition after petition for re-call of defence witnesses on flimsy reasons in a belated manner, which would show the delaying tactics of the petitioner, hence,



CrI.O.P.No.21438 of 2025

he cannot be permitted to fill up the lacuna in a piecemeal manner.

WEB COPY

6. Considering the facts and circumstances and also considering the submissions made by the learned counsel on either side, this Court is of the view that the intention of the petitioner/accused is only to drag on the proceedings, had filed petition after petition and hence this Court does not find any reason to interfere with the findings of the Court below. Therefore, the Criminal Original Petition is dismissed.

31.07.2025

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



WEB COPY



CrI.O.P.No.21438 of 2025

To

1. The Sessions Judge,
Mahila Court, Cuddalore.
2. The Station House Officer,
Assistant Superintendent of Police,
Virudhachalam Sub Division,
Karuvepplankurchi Police Station.
3. The Public Prosecutor,
High Court, Madras.



WEB COPY



CrI.O.P.No.21438 of 2025

P.VELMURUGAN, J

ms

CrI.O.P.No.21438 of 2025

31.07.2025