



Crl.O.P.No.21797 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2025

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.O.P.No.21797 of 2025

Hyat Basha

...Petitioner

Vs.

The State Rep. by
The Inspector of Police,
H-5, New Washermenpet Police Station,
Chennai – 600 081.
Crime No.329 of 2022

...Respondent

Petition filed under Section 528 of the Bharatiya Suraksha Sanhita, 2023 calling for the records in C.C.No.1353 of 2022 pending on the file of XV Metropolitan Magistrate Court George Town, Chennai and to set aside the order passed in Crl.M.P.No.4088 of 2025 dated 30.06.2025 and consequently permit the petitioner / Accused to have the Tamil Newspaper cutting carrying the new about the alleged offense marked as defense exhibit through the DW1 Mrs.Najima.

For Petitioner : Mr.R.Udaya Kumar

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



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ORDER

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This Criminal original petition is filed challenging the order dated 30.06.2025 passed in Crl.MP.No.4088 of 2025 by the learned XV Metropolitan Magistrate, George Town, Chennai. By the said order the application filed by the petitioner under Section 311 of Code of Criminal Procedure to recall D.W.1 for the purpose of marking a newspaper cutting was dismissed by the trial court.

2. The learned counsel for the petitioner would submit that the trial court dismissed the petition on the ground that the contents of the newspaper publication cannot be relied upon. The trial court did not understand the purpose for which the newspaper cutting was sought to be marked by the defence. It is not for relying upon the contents of the newspaper publication, but only to prove the fact that after seeing the newspaper only the petitioner went to the police station. Therefore, to that limited extent, the trial court ought to have permitted the petitioner to mark the said newspaper cutting.

3. The learned counsel would also submit that the reason for not marking the same, while originally examining DW.1 is that, the entire



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newspaper cutting that was kept by the petitioner got completely damaged and thereafter he went to the Connemara library and got a certified copy of the particular day's newspaper. The same is now readily available with him and therefore the recall petition.

4. Per contra the learned Government Advocate (Criminal side) would submit that the Trial court has correctly appraised the circumstances and rejected the petition. The newspaper cutting cannot be relied upon by the defence for proving the facts. The trial court has also relied upon the judgement of the Hon'ble Supreme Court of India in the case of *Laxmi Raj Shetty Vs. State of Tamil Nadu reported in 1988 3 SCC 319*.

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

6. Firstly, the reliance placed on the said judgement in *Laxmi Raj Shetty's case* cited supra cannot be appropriate because that passage which is extracted deals with taking of judicial notice. Taking of judicial notice is different from marking the document as a piece of evidence.



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Even with reference to marking of document, it can be held that the contents of the newspaper cutting cannot be readily acted upon. But however, the contention of the learned counsel for the petitioner is that the defence is not marking the same for relying on its contents, but only to prove that a particular news item appeared in the newspaper and after seeing that only the petitioner reported before the concerned police station.

7. Therefore, in the context in which the newspaper cutting is sought to be marked, I'm of the view that the same can be permitted. The reasoning is also given as to why the said newspaper cutting was not originally marked. In view of the fact that already in this matter, direction has been given for expeditious disposal, no further delay can be permitted. In this regard, while opportunity is being given, since DW.1 is the wife of the petitioner, in the next hearing of the case, let the DW.1 be present and the petitioner would be given an opportunity to mark the document alone and the public prosecutor will be entitled to cross examine the witness in that regard.

8. In view thereof, this criminal original petition is allowed and the



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order dated 30.06.2025 made in Crl.M.P.No.4088 of 2025 in

WEB COPY CC No.1353 of 2022 stands set aside on the following terms:

(i) On the next hearing of the case, let DW.1 be present and the petitioner shall be permitted to mark the said newspaper cutting alone and put such questions relating to the same alone and the public prosecutor will be entitled to further cross examine the witness and thereafter the matter can be quickly proceeded with.

05.08.2025

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NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

To

1. The Inspector of Police,
H-5, New Washermenpet Police Station,
Chennai – 600 081.
2. The XV Metropolitan Magistrate Court George Town, Chennai



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D.BHARATHA CHAKRAVARTHY.J.,

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