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Crl.O.P.No.21036 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2025

CORAM

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

Crl.O.P.No.21036 of 2025

M.Elancheran

... Petitioner

-Vs-

The State represented by
The Inspector of Police
Mannargudi Town Police Station
Mannargudi
Thiruvarur District.
(Crime No.565 of 2017)

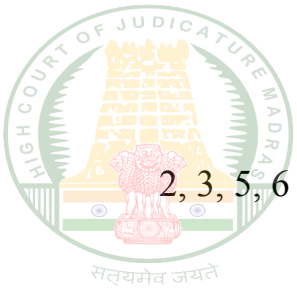
... Respondent

Prayer :- Criminal Original Petition filed under Section 482 of Cr.P.C., equivalent to Section 528 of BNSS, 2023 to call for the records and set aside the order dated 23.06.2025 in Crl.M.P.No.38 of 2025 passed by the learned Sessions Judge, Fast Track Mahila Court, Tiruvarur, in S.C.No.3 of 2018 pending on the file of the learned Sessions Judge, Fast Track Mahila Court, Tiruvarur, and pass appropriate order.

For Petitioner : Mr.R.Vivekananthan
For Respondent : Mr.S.Vinothkumar
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is directed against the order dated 23.06.2025 made in Crl.M.P.No.38 of 2025 in S.C.No. 3 of 2018. By the said order, the application filed by the petitioner to recall the witnesses viz., P.Ws.1,



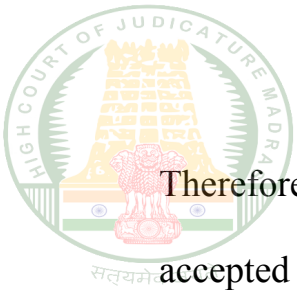
2, 3, 5, 6 and 7 for cross examination was dismissed.

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2. The petition was filed on the ground that earlier when these witnesses were examined, since they were speaking about the same facts, intending to cross examine them on the same day, an application was made to defer the cross examination and the same was allowed on 05.03.2025. After examination of the relevant witnesses, an application was made by way of the present miscellaneous petition. However, the Trial Court dismissed the same. The Trial Court considered that there is no such provision or privilege available in the criminal law, for the accused to take such a course. Considering the law relating to the deferral, the Trial Court dismissed the recall petition.

3. I have heard *Mr.Vivekananthan*, the learned counsel for the petitioner and *Mr.S.Vinoth Kumar*, the learned Government Advocate (Crl. Side) for the respondent.

4. It is one thing to decide about the provision or privilege of the accused to cross examine these witnesses on the same day or otherwise. But in this case, the said stage is over. Earlier when the accused made such a request and the same was accepted. The Trial Court did not dismiss such a request and directed the learned counsel for the accused to conduct the cross examination.



Therefore, on 05.03.2025, when the very same prayer of the accused has been accepted and on that ground the relevant witnesses were not cross examined on the same day, and pursuant thereto when the consequential application under Section 311 of Cr.P.C., is made, now things cannot be undone by once again deciding, whether the accused had the privilege in law. In any event, even in the absence of an enabling provision, in an appropriate case where the Court feels that the cross examination can be done on the same day, considering the fact that the cross examination is the valuable right of the accused, to establish his innocence, the earlier order that is passed permitting such a course cannot be termed as illegal.

5. Under the said circumstances, I am inclined to allow the Criminal Original Petition on the following terms,

(i) The order dated 23.06.2025 passed in Crl.M.P.No.38 of 2025 in S.C.No.3 of 2018 shall stand set aside;

(ii) The application filed by the petitioner / accused in Crl.M.P.No.38 of 2025 stands allowed;

(iii) The Trial Court shall fix the next date of hearing and issue summons to the concerned witnesses for cross examination on the same day.

6. At this stage, it has been brought to the notice of this Court that the



other accused had also made a similar request, and their recall petitions have now been dismissed. However, since the Court is reopening the matter for the purpose of cross-examination of the aforesaid witnesses, in the interest of a speedy trial, any other accused who have not yet cross-examined the said witnesses shall also be permitted to do so, notwithstanding the dismissal of their individual petitions.

24.07.2025

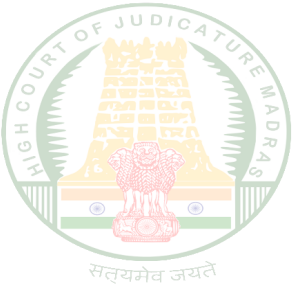
Neutral citation : Yes/No
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To

1. The Sessions Judge, Fast Track Mahila Court, Tiruvarur.

2. The Inspector of Police
Mannargudi Town Police Station
Mannargudi
Thiruvarur District.

3. The Public Prosecutor
High Court of Madras.



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D. BHARATHA CHAKRAVARTHY, J.

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