



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-08-2025

WEB COPY

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 22141 of 2025

1. Arumugam

S/o.Chinnan, No.212/2m

Boodipalayam, Madukkarai (West),

Coimbatore.

Petitioner(s)

Vs

1. State represented by, The Inspector

of Police,

Madukkarai Police Station,

Coimbatore.Cr.No.224/2015.

Respondent(s)

PRAYER : Petition filed under 442 BNSS readwith 438 of BNSS to set aside the order passed in C.M.P.No.1438/2015 in S.C.No.57/2017 (CNR No.TNCB01-002719-2025) on the file of the III Additional District and Sessions Judge and consequently the petitioner may be allowed to cross examine PW-4.

For Petitioner(s) : Mr.Pushpalath

For Respondent : Mr.R.Vinothraja
Government Advocate [Crl.Side]



ORDER

WEB COPY

Challenging the Order of the trial Court dismissing the petition filed by the petitioner to recall P.W.4 for the purpose of cross examination of the witness.

2. The contention of the petitioner is that P.W.4 was examined in a case under section 302 of Indian Penal Code. Though she was treated as a hostile witness, in the cross examination by the prosecutor, she had admitted the prosecution story. However, the learned counsel appearing for the petitioner did not cross examine the witness, since he was not available. Therefore, he had filed a petition to recall P.W.4 for the purpose of cross examination. The trial Court has dismissed the petition. Challenging the same, the present petition has been filed.

3. Whereas, the learned Government Advocate [Crl. Side] would submit that P.W.4 had turned hostile and cross examined by the prosecution and now the case is posted for arguments on 26.08.2025. Hence, opposed the petition.



4. At the outset, this Court is of the view that though negligence on the part of the learned counsel is apparent, the right of the accused cannot be denied. Though P.W.4 was cross examined by the prosecution, some incriminating evidence has also been brought on record. Hence, in order to give a fair opportunity to the accused, this Court is inclined to give one more chance to cross examine P.W.4. The trial Court shall fix a date for cross examination of P.W.4 and cross examination of the witness shall be completed on the same day. It is made clear that if the accused does not avail the opportunity of cross examining P.W.4 on the date fixed by the trial Court, he will lose his right of cross examination of the witness.

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

11-08-2025

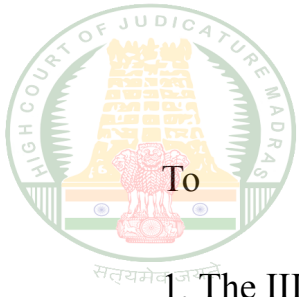
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

vrc



To

CRL OP No. 22141 of 2025



1. The III Additional District & Sessions Judge,
Coimbatore.

2. The Inspector of Police,
Madukkarai Police Station,
Coimbatore.Cr.No.224/2015.



WEB COPY

CRL OP No. 22141 of 2025



N.SATHISH KUMAR J.

VRC

CRL OP No. 22141 of 2025

11-08-2025