



Crl.O.P.No.23147 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2025

CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.No.23147 of 2025
and Crl.M.P.No.15815 of 2025

C.Sivakumar

... Petitioner

Vs.

State represented by,
The Inspector of Police,
CCB Police Station,
Avadi, Chennai.
(Crime No.23 of 2023)

... Respondent

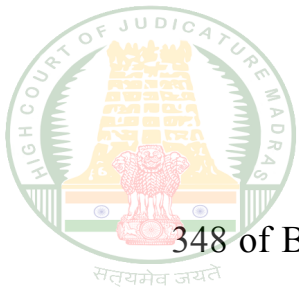
PRAYER : Criminal Original Petition is filed under Section 528 of BNSS, to set aside the conditional order C.M.P.No.294 of 2025 in C.C.No.81 of 2024 dated 10.03.2025 passed by the learned Judicial Magistrate No.I at Poonamallee and consequently, allow the petition to recall the witnesses PW1 to PW5 filed by the petitioner.

For Petitioner : Mr.A.Thanigaivel

For Respondent : Mr.R.Vinothraja
Government Advocate (Criminal Side)

ORDER

Challenging the order of the trial Court dated 10.03.2025 dismissing the petition filed by the petitioner in Cr.M.P.No.294 of 2025 under Section



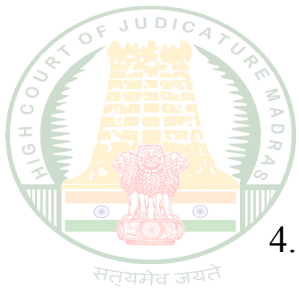
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348 of BNSS (corresponding to Section 311 Cr.P.C) to recall PW1 to PW5

for the purpose of cross examination, the present Criminal Original Petition has been filed.

2. The petitioner is arrayed as A2 in Crime No.23 of 2023, registered for the offences punishable under Sections 3(2)(a), 4(1) and 5(1)(a) of Immoral Traffic (Prevention) Act. The case is now pending trial on the file of the Judicial Magistrate No.I, Poonamallee, in C.C.No.81 of 2024. In the said proceedings, the petitioner filed a petition in Cr.M.P.No.294 of 2025 seeking to recall PW1 to PW5 for cross examination. Though the trial Court had granted an opportunity to the petitioner to cross examine the witnesses on payment of cost of Rs.1000/- each, the petitioner failed to avail the same. Hence, he is before this Court.

3. It is the contention of the learned counsel for the petitioner that since the counsel on record for the petitioner before the trial Court had met with an accident, he could not cross examine the witnesses. Hence, the petitioner may be permitted to cross examine PW1 to PW5. In support of his contention, he has also produced the discharge summary relating to the illness of the counsel appeared for the petitioner before the trial Court.



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4. Be that as it may, considering the facts and circumstances of the case, this Court is inclined to grant one more opportunity to the petitioner to cross examine PW1 to PW5 subject to payment of cost.

5. Accordingly, this Criminal Original Petition is allowed and the order passed by the learned Judicial Magistrate No.I, Poonamallee, in Cr.M.P.No.294 of 2025 is set aside. The petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) before the trial Court. On such deposit, the trial Court shall recall PW1 to PW5 and fix a date for their cross examination. It is made clear that the petitioner shall cross examine the said witnesses on the very same day of their appearance and in the event of the petitioner failing to cross examine the witnesses, the right of the petitioner to cross examine them shall be forfeited.

6. The trial Court shall disburse a sum of Rs.5,000/- to each of the witnesses, namely PW1 to PW5, on the date of their appearance. Consequently, the connected miscellaneous petition is closed.

21.08.2025

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Neutral Citation: Yes/No

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N. SATHISH KUMAR, J.

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To

1. The Judicial Magistrate No.I,
Poonamallee
2. The Inspector of Police,
CCB Police Station,
Avadi, Chennai.
3. The Public Prosecutor,
High Court of Madras.

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