



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-08-2025

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CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 22522 of 2025

1. Kalaiselvan

S/o.Kannnu, 2/127, Madagadi Street,
Andanapettai Pappakovil,
Nagapattinam - 611 102.

Petitioner(s)

Vs

1. The Inspector of Police,
Nagapattinam Town Police Station,
Nagapattinam. Crime No.159 of 2016

Respondent(s)

PRAYER Criminal Original Petition filed under section 528 of BNSS to set aside the order dated 02.06.2025 passed in Crl.M.P.No.2 of 2025 in S.C.No.60 of 2023 on the file of the Chief Judicial Magistrate, Nagapattinam and Direct the Chief Judicial Magistrate, Nagapattinam to recall and cross-examination of P.W.1 and P.W.2, in the interest of justice and fair trial, and Pass such further or other orders as this Honble Court.



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For Petitioner(s): K. Pragadeesh Kumar

For Respondent(s): Mr.R.Vinodh Raja,
Government Advocate [Crl.Side]

ORDER

Criminal Original Petition filed under section 528 of BNSS to set aside the order dated 02.06.2025 passed in Crl.M.P.No.2 of 2025 in S.C.No.60 of 2023 on the file of the Chief Judicial Magistrate, Nagapattinam and direct the Chief Judicial Magistrate, Nagapattinam to recall and cross-examination of P.W.1 and P.W.2, in the interest of justice.

2. The petitioner is the accused facing trial in S.C.No.60 of 2023 for the offences under section 294[b], 323 and 307 IPC. On the date of examination of the witnesses, as the Senior Advocate engaged by the petitioner was in another Court, the witnesses have not been cross examined on that date. Therefore, the petitioner had filed a petition to recall P.W.1 and P.W2 for the purpose of cross examination. The said petition has been dismissed by the trial Court on the ground that as the petition has been filed almost one year after examination of



the witnesses and no bonafide reasons are shown for filing the petition belatedly

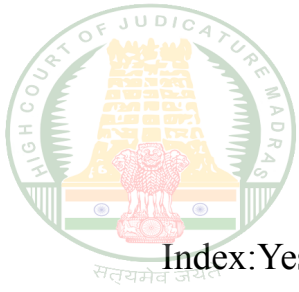
and therefore, dismissed the petition. Hence, this petition to recall the witnesses

for the purpose of cross examination.

3. Considering the facts and circumstances of the case and in order to give an opportunity to the petitioner to cross examine P.W.1 and P.W.2, I am inclined to allow this petition on payment of cost.

4. Accordingly, this Criminal Original Petition is allowed and the Order of the trial Court in Crl.M.P.No.2 of 2025 in S.C.No.60 of 2023 dtd 02.06.2025 is set aside on condition that the petitioner pays cost of Rs.5000/- [five thousand only] each to P.W.1 and P.W.3 on the date of their cross examination. The trial Court shall fix a date for cross examination of P.W.1 and P.W.2 and the petitioner shall complete the cross examination of the witnesses on the date fixed by the trial Court. If the cross examination has not been done on that date, his right for cross examination of the witnesses shall be forfeited.

13-08-2025



Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

vrc

To

1. The Inspector of Police,
Nagapattinam Town Police Station,
Nagapattinam. Crime No.159 of 2016



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N.SATHISH KUMAR J.

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