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CRL OP No. 23347 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-08-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 23347 of 2025

and

CRL MP NO. 15940 OF 2025

R.Sakthivel

Petitioner(s)

Vs

The State
rep by its Inspector,
Ambur Taluk Police Station,
Ambur Taluk.

Respondent(s)

Prayer : This Criminal Original Petition has been filed under Section 528 of BNSS to set aside the order passed by the District and Sessions Judge, Tirupathur in Crl.M.P.No.937 of 2024 in S.C.No.28 of 2024 dated 05.08.2025.

For Petitioner(s): Mr.Harikrishnan

For Respondent(s): R. Vinothraja,
Govt. Advocate (crl.side)

**ORDER**

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Challenging the order of the dismissal passed by the Trial Court in the application filed for recalling the witness, P.W.24, Investigation Officer, the present petition has been filed.

2. It is the contention of the petitioner that the petitioner is charged for the offences under Sections 376, 302, 201 and 366 of IPC and is facing trial in SC.No.28 of 2024 before the Principal District and Sessions Court, Tirupattur. When the matter was posted for examination of the Investigation Officer on 28.07.2025, the counsel on record was not able to appear as he had met with an accident on that day. However, the Trial Court examined the Investigation Officer in chief as PW.24, closed the evidence on the side of the prosecution and posted the matter for questioning under Section 313(1)(b) Cr.P.C.

3. Thereafter, the petitioner/accused has filed a petition under Section 348 of BNSS to recall the witness of PW.24/Investigation Officer, for cross examination and the same was dismissed on the ground that the counsel had not



appeared for cross examination by supporting the advocates' boycott. Now, after questioning, the matter is posted for judgment on 21.08.2025. Hence, the present petition has been filed.

4. Heard the learned Government Advocate (crl.side) and perused the materials available on records carefully.

5. Considering the gravity of the offence, and the accused is facing charges under sections 376 and 302 of IPC, the Trial Court ought to have granted opportunity to cross examine the investigation officer. The Trial Court, in fact, mechanically dismissed the application. Hence, this Court is of the view that, without going into the merits of the case, only by a cryptic order, the Trial court dismissed the application.

6. In such view of the matter, the order impugned is set aside. The Trial Court is directed to recall the Investigation Officer and fix a date for cross examination and on the said date, the cross examination shall be completed. It



is made clear that if the cross examination is not done on the date fixed by the Trial Court, the accused will lose his right.

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7. With the above directions, this Criminal Original petition is allowed.

Consequently, connected miscellaneous petition is closed.

20-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

mrp

To

1. The District and Sessions Court, Tirupathur.

2. The Inspector of Police,
Ambur Taluk Police Station,
Ambur Taluk.



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N.SATHISH KUMAR J.

mrp

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