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Crl.M.P No.15798 of 2025 in
Crl.OP.No.14042 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2025

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.M.P.No.15798 of 2025
in
Crl.OP.No.14042 of 2025

1.R.Manickavel
2.A.Ramakrishnan Petitioners

Vs

1.State By: Inspector of Police,
Central Crime Branch,
EDF-II, Team-IV,
Vepery, Chennai 600 007

2.A.G.Sivaraman Respondents

PRAYER: Criminal Miscellaneous Petition filed praying to pass an order to recall the order dated 30.04.2025 passed by this Court in Crl.OP.No.14042 of 2025 thereby allowing the criminal original petition.

For Petitioners : Mr.Muthucharan Sundresh
For Respondents
For R1 : Mr.A.Gopinath,
Government Advocate(crl.side)
For R2 : Mr.K.Thenrajan



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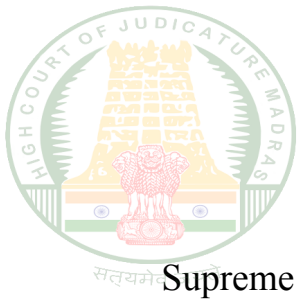
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ORDER

Today the matter is listed under the caption 'for being mentioned' at the instance of the learned counsel appearing for the respondents.

2. This Court by an order dated 19.08.2025 allowed the recall petition and recalled the order dated 30.04.2025 passed by this Court in Crl.O.P.No.14042 of 2025 and also directed the Registry to list the quash petition in Crl.O.P.No.14042 of 2025 before the regular Court.

3. The petitioner filed the above quash petition to quash the proceeding in C.C.No.6886 of 2023 on the file of the learned Metropolitan Magistrate for Exclusive Trial of CCB and CBCID Cases, Egmore, Chennai. This Court dismissed the quash petition by an order dated 30.04.2025 on two grounds. The first one was that the trial was commenced before the trial Court and as such the quash petition cannot be entertained. This Court also dismissed the quash petition on merits observing that whether the initiation of criminal proceedings is malicious or not, is not required to be considered at this stage and it is required to be considered at the conclusion of trial. Aggrieved by the said order, the petitioners also preferred a Special Leave Appeal before the Hon'ble Supreme Court of India in S.L.A.No. 8356 of 2025 and the Hon'ble



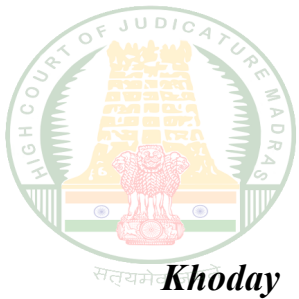
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Supreme Court of India by an order dated 11.06.2025, dismissed the said SLA and confirmed the order passed by this Court.

4. Though the learned counsel appearing for the petitioner stated the above facts in the recall petition, this Court did not notice the same and recalled the order passed by this Court on the ground that the trial is not yet commenced in C.C.No.6886 of 2023 as submitted by the learned Government Advocate (Crl. Side). Even till today, the trial has not commenced by the trial Court. Further this Court dismissed the quash petition on the merits also and the same was also confirmed by the Hon'ble Supreme Court of India. Therefore, the order dated 19.08.2025 passed by this Court in Crl.M.P.No.15798 of 20225 has to be recalled.

5. The learned counsel appearing for the petitioner submitted that the order refusing Special Leave to Appeal, be it a non-speaking order or a speaking order, it does not attract the doctrine of merger. Therefore, the order passed by this Court can be recalled since this Court dismissed the quash petition on the ground that the trial has been commenced. Even now, the trial is not yet commenced. In support of his contention he relied upon the judgment of the Hon'ble Supreme Court of India reported in **(2019) 4 SCC 376** in the case of



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***Khoday Distillereire Limited and ors Vs. Sri Mahadeshwara Sahakara
Sakkare Karkhana Limited***, which held as follows:-

“26. From a cumulative reading of the various judgments, we sum up the legal position as under:

“.....

(v) If the order refusing leave to appeal is a speaking order, i.e., gives reasons for refusing the grant of leave, then the order has two implications. Firstly, the statement of law contained in the order is a declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution. Secondly, other than the declaration of law, whatever is stated in the order are the findings recorded by the Supreme Court which would bind the parties thereto and also the court, tribunal or authority in any proceedings subsequent thereto by way of judicial discipline, the Supreme Court being the Apex Court of the country. But, this does not amount to saying that the order of the court, tribunal or authority below has stood merged in the order of the Supreme Court rejecting the special leave petition or that the order of the Supreme Court is the only order binding as res judicata in subsequent proceedings between the parties.”

6. It is true that mere refusal of appeal does not attract the doctrine of merger. But in this case, the order of dismissal of quash petition is now



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confirmed by the Hon'ble Supreme Court of India. The only question arises in this petition is whether the recall order passed by this Court is maintainable or not, on the ground that the doctrine of merger does not attract in this case. However, the doctrine of merger is applicable to this case and the petition to recall is not maintainable and it is not permissible. Therefore, the above judgement is not applicable to the case on hand. Hence, the petition filed by the petitioner to recall the order cannot be sustainable and is liable to be dismissed.

7. Accordingly, the order dated 19.08.2025 passed by this Court in Crl.M.P.No.15798 of 2025 is hereby recalled and the recall petition stands dismissed. Consequently, the order dated 30.04.2025 passed in Crl.O.P.No.14042 of 2025 shall stand restored. However, the petitioner is at liberty to look out his remedy in the manner known to law by applying the above referred judgement.

25.08.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
rts

G.K.ILANTHIRAIYAN, J.
rts

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1.The Metropolitan Magistrate
for Exclusive Trial of CCB and CBCID Cases,
Egmore, Chennai.

2.Inspector of Police,
Central Crime Branch,
EDF-II, Team-IV,
Vepery, Chennai 600 007

3.The Public Prosecutor,
High Court of Madras

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