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CRL OP No. 23388 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-08-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 23388 of 2025

Suresh
S/o. Annamalai,
No.25/16, Aadham Khan Dharga Street,
Thiruvathigai Village, Panruti

Petitioner(s)

Vs

The Station House officer,
Panruti Police Station,
Cuddalore District. Cr.No.1133/2013

Respondent(s)

PRAYER

This Criminal Original Petition has been filed under Section 528 of BNSS Act to Call for the records relating to the order dated 21.04.2025 made in CMP.No.2990/2023 in CC.No.77/2015 on the file of Judicial Magistrate Court No.I, Panruti and set aside the same as illegal.



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CRL OP No. 23388 of 201



For Petitioner(s): Mr. S.Marshall

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

ORDER

Challenging the impugned order rejecting the application filed under section 311 Cr.P.C. to cross examine P.W.1 to P.W.5, who have been examined in the year 2015 & 2016, the present petition has been filed.

2. The petitioner, who is facing trial in CC No.77 of 2025 before the Judicial Magistrate No.I, Panruti, for the alleged offences under Sections 294(b), 324, 326, and 506(ii) IPC, has filed a Miscellaneous Petition in CMP No.2990 of 2023 seeking to recall P.W.1 to P.W.7 for cross examination. The Trial Court, vide order dated 21.04.2025, partly allowed the application and granted permission to cross examine P.W.6 and P.W.7 on payment of cost of Rs.500/- each. Hence, the present petition has been filed seeking permission to cross examine P.W.1 to P.W.5.



3. Heard the learned counsel for the petitioner and the learned Government Advocate (crl.side) appearing for the respondent and perused the materials available on records carefully.

4. On perusal, it is seen that PWs.1 to 4 were examined as early as on 16.12.2015 and P.Ws.5 and 6 were examined on 04.04.2016. However, the said witnesses were not cross examined by the petitioner/accused. On an earlier application filed by the petitioner/accused, an opportunity was granted to cross examine the witnesses subject to certain conditions. Since the conditions were not complied with, the application was dismissed on 14.06.2016. Thereafter, another counsel was engaged and he has filed another application to cross examine the P.Ws.1 to 5 in CrI.MP No.5779(a) of 2016, which was also dismissed by the Trial Court on 12.01.2018. Again, yet another application has been filed in CMP No.90 of 2020 under Section 243(2) Cr.P.C seeking cross examination of P.Ws.1 to 4 & P.W.7, which was also dismissed by the Trial Court. The dismissal order has not been challenged by the petitioner and hence, it reached finality. Subsequently, the present petition has been filed once



again to recall P.Ws.1 to 7 for cross examination.

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5. This Court is of the view that though several opportunities were granted, the petitioner has not chosen to cross examine P.Ws.1 and 5. The very conduct of the petitioner clearly indicates that he has treated the trial according to his own whims and fancies and has deliberately dragged the proceedings.

6. The witnesses were examined as early as 2016 and, despite the lapse of almost nine years, the matter has been prolonged. It is not a case where the petitioner was denied an opportunity, rather, having been given opportunities, he failed to avail them.

7. A person who has been afforded opportunities, but failed to utilise them, cannot claim that he was denied a fair trial. The object of a fair trial is to provide a reasonable opportunity, but once such opportunity is not properly exercised and the matter is purposely delayed, the accused cannot complain of lack of opportunity. Hence, I do not find any merit in this petition.



8. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petition is closed.

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Neutral Citation: Yes/No

mrp

To

The Station House officer,
Panruti Police Station, Cuddalore
District. Cr.No.1133/2013



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N.SATHISH KUMAR J.

mrp

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