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Crl.O.P.No.30349 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.30349 of 2024

Dhandapani

... Petitioner

Vs.

The State Represented by
The Deputy Superintendent of Inspector,
Uthangarai Division,
Krishnagiri District.

.. Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order of dismissal in Crl.M.P.No.418 of 2024 dated 06.08.2024 in SC No.214 of 2023 and pending on the file of the Learned Principle District and Sessions Judge, Krishnagiri and pass any other order as deem fit under the circumstances of the case and thus render Justice.

For Petitioner : Mr.K.Ramesh

For Respondent : Mr.K.M.D.Muhilan
Government Advocate (Crl. Side)



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ORDER

This Criminal Original Petition has been filed to set aside the order of dismissal in Crl.M.P.No.418 of 2024 dated 06.08.2024 in SC No.214 of 2023 pending on the file of the Learned Principle District and Sessions, Krishnagiri.

2. The learned counsel for the petitioner submitted that the petitioner is an accused and charged for an offence under Sections 307, 302 of IPC in S.C.No.214 of 2023 on the file of the Principal District and Sessions Judge, Krishnagiri. It is stated that on 09.01.2024, PW1 was examined in chief and cross examined partly and upon recording the statement of PW1 that she has a surgery on her hands on the next day ie., on 10.01.2024, the matter was adjourned. Thereafter, the recall petition was filed before the trial Court in Crl.M.P.No.418 of 2024 to recall PW1 and the same was dismissed, without considering the submissions of the petitioner. Aggrieved by the same, the petitioner filed the present petition, seeking one more opportunity to recall the PW1 for further cross examination.



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3. The learned Government Advocate appearing for the respondent would submit that already PW1 has been cross-examined. Hence, he prayed for dismissal of this petition.

4. Heard the learned Counsel appearing on either side and perused the materials placed on record.

5. Considering the facts and circumstances of the case, this Court feels that the petitioner may be granted one more opportunity to put fourth his defence. Accordingly, the order dated 06.08.2024, passed by the Principle District and Sessions Judge, Krishnagiri in Crl.M.P.No.418 of 2024 in S.C.No.214 of 2023, is hereby set aside and the petitioner is permitted to cross examine P.W.1 on the date fixed by the trial Court, on payment of necessary charges. If the petitioner failed to cross-examine P.W.1 on that date, the trial Court is directed to proceed with trial in accordance with law.



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6. With the above directions, this Criminal Original Petition is allowed.

27.02.2025

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

To

1. The Principle District and Sessions Judge,
Krishnagiri.
2. The Deputy Superintendent of Inspector,
Uthangarai Division,
Krishnagiri District.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.
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