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Crl.O.P.No.375 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.375 of 2025

Ravee Raman Malhotra

... Petitioner

Vs.

1. A.R.Sridharan

2. The State rep. by the
Deputy Superintendent of Police
CBCID, Chengalpattu East Unit
Chennai
Crime No.4 of 1998

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S. to set aside the order dated 12.11.2024 made in Crl.M.P.No.3683 of 2024 in SPL. S.C.No.04 of 2012 on the file of the Chief Judicial Magistrate, Chengalpattu.

For Petitioner	: Mr.N.Manoharan
For 1 st Respondent	: Mr.C.Umashankar
For 2 nd Respondent	: Mr.S.Sugendran
	Additional Public Prosecutor



Crl.O.P.No.375 of 2025

ORDER

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This Criminal Original Petition has been filed by the petitioner to set aside the order dated 12.11.2024 made in Crl.M.P.No.3683 of 2024 in SPL. S.C.No.04 of 2012 on the file of the Chief Judicial Magistrate, Chengalpattu.

2. The petitioner is the defacto complainant and the first respondent is the accused in SPL. S.C.No.04 of 2012.

3. The learned counsel for the petitioner/defacto complainant submits that the case in SPL. S.C.No.04 of 2012 is of the year 2012 and 60 witnesses have been examined and almost all the witnesses were cross examined by the petitioner. Earlier occasion also, the respondent filed a recall petition and the same was also allowed and two of the witnesses were earlier recalled and they were also cross examined by the first respondent. Subsequently, the first respondent filed another petition in Crl.M.P.No.3683 of 2024 to recall some of the witnesses and the learned Magistrate, allowed the same by order dated 12.11.2024. Against which, the present petition is filed. The contention of the



Crl.O.P.No.375 of 2025

petitioner is that the learned Magistrate has not given any reason for allowing the said petition and simply stated that an opportunity to be given to the petitioner therein considering the interest of justice. Further, the first respondent also has not given any reason as to why he wants to recall the witnesses and what are the materials specifically sought to be asked. He also submitted that the witnesses sought to be recalled by the first respondent are aged about 70 to 80 years and they have been dragged as witnesses from the year 2012 onwards and therefore the impugned order has to be set aside.

4. The learned counsel for the respondent/accused submits that the Investigating Officer has marked two of the documents mentioned in the charge sheet and the first respondent wanted to put some more questions to the witnesses in that regard. Therefore, he filed the recall petition and the learned Magistrate, in order to conduct a fair trial and in order to give an opportunity to the first respondent/accused, allowed the petition. Therefore, there is no merit in this petition.



Crl.O.P.No.375 of 2025

5. Heard both sides and perused the materials available on record.

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6. A reading of the entire materials shows that the first respondent has not objected any documents marked by the Investigating Officer. Further, as stated by the learned counsel for the petitioner, the document is only the order passed by this Court in Criminal Original Petition which is nothing to do with the witnesses sought to be recalled.

7. A reading of the recall petition filed by the first respondent/accused before the Magistrate shows that the respondent/accused has not assigned any reason for recalling the witnesses. A perusal of the impugned order passed by the Magistrate shows that Magistrate has not stated any specific reason for allowing the recall petition except the word that an opportunity to be given to the petitioner considering the interest of justice.

8. The case is pending for 12 years from the year 2012. All the witnesses were examined years together and they were also cross examined by the counsel for the first respondent. Some of the witnesses were earlier recalled



Crl.O.P.No.375 of 2025

and cross examined by the first respondent. If this type of application is entertained, there will not be a full stop and it will go endlessly. In this case, already sufficient opportunities were given to the parties. Therefore, this Court finds that the order passed by the Magistrate is liable to be set aside.

9. Accordingly, this Criminal Original Petition is allowed. The order dated 12.11.2024 passed by the Chief Judicial Magistrate, Chengalpattu, in Crl.M.P.No.3683 of 2024 in SPL. S.C.No.04 of 2012, is set aside.

10. The Special Judge/Chief Judicial Magistrate, Chengalpattu, is directed to proceed the case in Spl.S.C.No.4 of 2012 further in accordance with law and dispose of the case on merits as early as possible.

27.01.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

ksa-2



Crl.O.P.No.375 of 2025

To

1. The Chief Judicial Magistrate, Chengalpattu.
2. The Deputy Superintendent of Police
CBCID, Chengalpattu East Unit
Chennai
3. The Public Prosecutor
High Court of Madras



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Crl.O.P.No.375 of 2025

P.VELMURUGAN. J.

Ksa-2

Crl.O.P.No.375 of 2025

27.01.2025