



Crl.O.P.No.32508 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.32508 of 2024 and
Crl.M.P.No.18578 of 2024

R.Anuradha

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
CBCID HQ, Chennai.

...Respondent

Prayer: Criminal Original Petition filed under Section 528 BNSS, to set aside the order passed on 13.12.2024 in Crl.M.P.No.1 of 2024 in C.C.No.706 of 2010 by the XI Metropolitan Magistrate Court, Saidapet, Chennai.

For Petitioner : M/s.R.Radha Pandian

For Respondent : Mr.S.Sugendran,
Additional Public Prosecutor



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ORDER

This petition has been filed seeking to set aside the order of dismissal of petition filed by the petitioner under Section 311 Cr.P.C. to recall P.W.39 the Investigating Officer.

2 According to learned counsel for the petitioner, the petitioner was arrayed as A1 in C.C.No.706 of 2010. Due to Covid-19 pandemic, the learned counsel for the petitioner could not cross examine P.W.39 the Investigating Officer. Hence he filed a petition under Section 311 Cr.P.C. seeking to recall P.W.39 for cross examination. The learned trial Judge without considering the reasons, dismissed the petition filed by the petitioner under Section 311 Cr.P.C., which warrants interference of this Court.

3 Learned Additional Public Prosecutor for the respondent police would submit that the Investigating Officer (P.W.39) had appeared for several occasions, but the defence counsel has not cross examined him and hence the learned trial Judge rightly dismissed the petition.



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4 Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor for the respondent police and perused the materials available on record.

5 It is contented by the learned Additional Public Prosecutor that the Investigating Officer (P.W.39) has appeared before the trial Court for several occasions, but the learned counsel for the defence has not utilised the opportunities. Even though the reasons stated by the petitioner are not satisfied, in order to give one last opportunity, this Court is inclined to set aside the order of dismissal of petition filed under Section 311 Cr.P.C. on payment of cost.

6 Accordingly, the order dated 13.12.2024 passed by the learned XI Metropolitan Magistrate, Saidapet, Chennai, in Crl.M.P.No.1 of 2024 in C.C.No.706 of 2010 is hereby set aside, on payment of cost of Rs.10,000/- to the credit of C.C.No.706 of 2010 on or before 22.01.2025 before the trial Court. On payment of cost of Rs.10,000/- by the petitioner, the learned XI Metropolitan Magistrate, Saidapet, Chennai, is directed to issue summon to P.W.39 mentioning the particular date and on that day the learned counsel for



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the defence is directed to cross examine P.W.39 and complete the same on the same day, failing which, the learned Magistrate shall cancel the bail and retain the petitioner in prison and complete the trial. After completion of trial, the said cost of Rs.10,000/- shall be deposited to the account of Government of Tamilnadu.

7 With the above directions, this criminal original petition stands allowed. Consequently connected miscellaneous petition also closed.

08.01.2025

Speaking Order/Non Speaking Order
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Note: IT on 20.01.2025

To

1. The XI Metropolitan Magistrate Court, Saidapet, Chennai.
2. The Inspector of Police, CBCID HQ, Chennai.



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P.VELMURUGAN, J.,

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