



Crl.O.P(MD).No.783 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2025

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

Crl.O.P(MD).No.783 of 2025

1. Kala Devi

2. Gowtham

... Petitioners

Vs

The State of Tamil Nadu,
Rep by the Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District. Crime No. 255/2022.

... Respondent

Prayer: Criminal Original Petition filed under section 528 of BNSS to call for the records pertaining to the order, dated 27.12.2024 in Cr.M.P No. 14709 of 2024 in STC No. 250 of 2024 on the file of the learned Judicial Magistrate, Paramakudi and set aside the same.

For Petitioners : Mr. J.Yogeswaran

For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



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ORDER

This Criminal Original petition has been filed to set aside the order, dated 27.12.2024 passed in Cr.M.P No. 14709 of 2024 in STC No. 250 of 2024 on the file of learned Judicial Magistrate, Paramakudi.

2. The petitioners, who are arrayed as A1 and A2 are facing trial in STC No.250 of 2024 for the offence punishable under sections 294(b), 448, 323, 506(ii) IPC and Section 4 of TNPHW Act, 2002 have filed a petition under Section 311 of Cr.P.C to recall PW1 and PW2, which was dismissed by the trial Court by order, dated 27.12.2024.

3.It is the contention of the petitioners that the petitioners and the defacto complainant are neighbours. There are some disputes between them with respect to sharing of common amenities, which has been projected, as if, the petitioners have scolded and assaulted the defacto complainant. In this case, PW1 and PW2 were examined on 04.12.2024. Since the learned counsel for the petitioners was unable to get instructions and in order to verify certain documents, those witnesses could not be cross-examined on that day.



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4.In the meanwhile, the petitioners have filed a petition before this Court to quash the charges against them in Crl.O.P(MD) No.6624 of 2024, which was dismissed by this Court with a direction to dispose of the case within a period of six months. Only on that ground, the trial Code had dismissed the petition filed by the petitioners seeking recall of witnesses PW1 and PW2.

5.The learned counsel for the petitioners further submitted that the evidence is not completed unless and until it has to be tested by way of cross-examination. However, the trial Court has not considered these aspects and only for the reason that it is a time bound case, denied the fundamental right of the petitioners to cross-examine the witnesses.

6.The learned Additional Public Prosecutor appearing for the respondent police submitted that this case is posted for hearing on 21.01.2025 for examination of further witnesses. The witnesses can be produced without any delay.



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7.Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondents and perused the materials available on record.

8.It is seen from the records that the case is posted for hearing on 21.01.2025 for examination of further witnesses. Since this Court has directed the trial Court to dispose of the case within a period of six months, the trial Court has dismissed the petition filed by the petitioners seeking recall of witnesses PW1 and PW2. Without cross examination of witnesses, the evidence could not be completed, unless and until the witnesses have to be tested by way of cross-examination. It is only for the benefit of the Court to testify the genuineness of the witnesses. The petitioners' right of cross-examination cannot be denied for the reason that it is a time bound case.

9.In view of the same, this Court is inclined to set aside the impugned order, dated 27.12.2024 in Cr.M.P.No.14709 of 2024 in STC No.250 of 2024 on the file of Judicial Magistrate, Paramakudi and permitted the petitioners to cross-examine PW1 and PW2, on the date fixed by the trial Court without any delay.



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10. Accordingly, this Criminal Original Petition stands allowed.

20.01.2025

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
PNM

To

1. The Judicial Magistrate, Paramakudi

2. The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District. Crime No. 255/2022.

3. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai



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M. NIRMAL KUMAR, J.

PNM

ORDER IN
Crl.O.P(MD) No. 783 of 2025

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