



CRL.OP(MD) NO.7512 of 2025

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 24.04.2025**

**CORAM:**

**THE HONOURABLE MR.JUSTICE P.DHANABAL**

CRL. O.P(MD) No.7512 of 2025

1.Pushpalatha  
2.Gayathiri  
3.Thandavan  
4.Nadarajan

... Petitioner

Vs

The State of Tamil Nadu,  
Rep. by the Sub Inspector of Police,  
Manamadurai Police Station,  
Sivagangai District.  
(Crime No.476 of 2017)

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 to call for records pertaining to order dated 20.09.2023 in Crl.M.P. No.4423/2023 in CC 843/22 and set aside the same by allowing this Criminal Original Petition and consequently permit the petitioner to cross examine PW1 to PW5 at any date fixed by this Court.

For petitioner : Mr.Ramaguru  
for Mr.L.Prabakaran

For respondent : Mr.M.Sakthi Kumar,  
Government Advocate (Crl.Side)



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## **ORDER**

This petition is filed by the petitioners to set aside the order passed by the learned Judicial Magistrate, Manamadurai, in CrI.M.P.No.4423 of 2023, in C.C.No.843 of 2022, dated 20.09.2023.

2. The learned counsel for the petitioners would submit that these petitioners are accused in C.C.No.843 of 2022. The prosecution examined P.W.1 to P.W.5 on various dates. While so, the petitioner counsel was unable to cross-examine the witnesses due to want of some material documents. Therefore, the evidence of P.W.1 to P.W.5 were closed without cross-examination of the witnesses. Thereafter, the petitioner filed a petition to recall the witnesses P.W.1 to P.W.5 for cross-examination before the Trial Court in Cr.M.P.No.4423 of 2023 and the same was dismissed by the Trial Court on the ground that the counsel for the petitioner was present on that date of examination of witnesses, but not cross-examined. However, the Trial Court failed to consider that this is the first application filed by the petitioner to recall P.W.1 to P.W.5 for cross-examination. Hence, the order passed by the Trial Court is liable to be set aside.



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**WEB COPY** 3. The learned Government Advocate (Crl.Side) for the respondent would submit that the petitioners are accused in this case and the prosecution witnesses P.W.1 to P.W.5 were examined on various dates. On those dates, the counsel for the petitioners appeared, but not cross-examined. Now, the petitioners filed the petitioner to recall the witnesses, without assigning any proper reason and only stated that on the date of examination of witnesses, they did not have any material documents, however, the petitioners failed to state what are the documents they want. Therefore, the Trial Court, after elaborate discussion, dismissed the petition. Therefore, this petition is liable to be dismissed.

4. This Court heard both sides and perused documents.

5. It is an admitted fact that the prosecution witnesses P.W.1 to P.W.5 were chief-examined on various dates and the petitioners also did not cross-examine the witnesses. The reason stated by the petitioners is that due to want of some documents, they unable to cross-examine the witnesses. Thereafter, they filed this petition to recall P.W.1 to P.W.5, but the Trial Court dismissed the petition on the ground that they have not



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cross-examined the witnesses on the date of chief-examination of the witnesses.

6. Though the Trial Court dismissed the petition, it failed to consider that this is the first application filed by the petitioner and the prosecution witnesses are not even cross-examined by the petitioner. Therefore, in order to give fair chance to ensure the fair trial and secure the interest of justice, it is appropriate to give one more opportunity to the petitioners.

7. In view of the same, the order passed by the learned Judicial Magistrate, Manamadurai in Crl.M.P.No.4423 of 2023, dated 20.09.2023, is set aside and the petitioners are directed to deposit Rs.1,000/- each to the witnesses towards cost before the Trial Court within a period of 15 days from the date of this order. On such deposit being made by the petitioners, the Trial Court is directed to issue summons to the witnesses by fixing date. On that date, the petitioners have to cross-examine the witnesses. After completion of cross-examination, the Trial Court will pay the amount deposited by the petitioners to the witnesses.

8. With the abovesaid directions, this Criminal Original Petition is



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allowed.

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24.04.2025

NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
apd

To

1.The Judicial Magistrate,  
Manamadurai.

2.The Sub Inspector of Police,  
Manamadurai Police Station,  
Sivagangai District.

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



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**P.DHANABAL,J**

apd

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