



Crl.O.P.(MD)No.2777 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2025

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.2777 of 2025

and

Crl.M.P(MD) No.1868 of 2025

1. Seeman Kafoor
2. Ehajan Beevi
3. Hema

.. Petitioners

Vs.

The Inspector of Police
All Women Police Station
Paramakudi,
Ramanathapuram District

.. Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS,
to call for the records in Cr.M.P. No.58 of 2025 in C.C. No.440 of 2023
on the file of the learned Judicial Magistrate, Paramakudi dated
04.02.2025 and set aside the same.



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For Petitioners : Mr.S.Muniyandi

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate(Crl.Side)

ORDER

This Criminal Original Petition has been filed to set aside the order passed in Cr.M.P. No.58 of 2025 dated 04.02.2025 by the Judicial Magistrate, Paramakudi in C.C. No.440 of 2023

2. The learned counsel appearing for the petitioners would submit that these petitioners are accused in C.C. No. 440 of 2023 on the file of the Judicial Magistrate, Paramakudi. In the said case, already trial commenced and P.W.1 and P.W.2 were examined on 03.01.2024, P.W.3 was examined on 18.06.2024, P.W.4 was examined on 27.06.2024, P.W.5 and P.W.6 were examined on 08.08.2024 and 14.08.2024 respectively, P.W.7 to P.W.9 were examined on 21.08.2024 and P.W.10 was examined on 04.09.2024 and P.W.11 was examined on 21.11.2024. It was submitted before trial Court that Crl.O.P(MD) No.21308 of 2023 is pending before the High Court, hence they have not cross examined the witnesses but the trial Court closed the evidence of P.W. 1 to P.W. 11



without cross examination of witnesses. Thereafter the petitioner has filed a petition before the trial Court to recall the witnesses P.W.1 to P.W. 11 but the trial Court erroneously dismissed the petition by observing that witnesses were already examined on various dates but the petitioners have not taken any steps to cross examine the witnesses for the past one year. However the trial Court failed to consider that the witnesses have to be cross examined and in order to ensure fair trial the trial Court ought to have given one chance to the petitioner, therefore the order passed by the trial Court is liable to be set aside.

3. The learned Government Advocate(Crl.Side) appearing for the respondent would submit that already witnesses were chief examined on various dates and thereafter no steps were taken to cross examine the witnesses for the past one year. Mere pendency of the quash petition is not sufficient to postpone the cross examination. Hence, the order passed by the trial Court is in order and the present petition is liable to be dismissed.

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

5. In this case it is admitted fact that already prosecution side



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witnesses were examined in chief but not cross examined by the petitioner.

The reason stated for non cross examination of witnesses is that they filed a quash petition before this Court and this same was pending in Crl.O.P(MD)No. 21308 of 2023 but the trial Court closed the evidence of witness without cross examination. Thereafter the petitioners filed petition to recall the witnesses but the trial Court dismissed the petition on the ground that already sufficient chance was given to the petitioners but the petitioners failed to avail that opportunity. Though the trial Court has stated reasons, however failed to consider that the witnesses have not been subjected for cross examination and this petition has been filed for the first time. Considering the nature of offence and inorder to ensure fair trial the trial Court ought to have given one chance to the petitioners to cross examine the witnesses, therefore the order passed by the trial Court is liable to be set aside.

7. In view of the same, the Criminal Original Petition stands allowed and the order passed by the learned Judicial Magistrate, Paramakudi in Cr.M.P. No.58 of 2025 dated 04.02.2025 in C.C. No.440 of 2023 is set aside. The petitioners shall deposit a sum of Rs. 1000/- as costs to each of the witnesses P.W.1 to P.W. 11 before the trial Court



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within a period of 15 days from the date of receipt of a copy of this order and after such deposit the trial Court is directed to issue summons to the witnesses and the petitioner shall cross examine the witnesses without further delay and seeking adjournments. Consequently connected miscellaneous petition stands closed.

14.02.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Judicial Magistrate, Paramakudi
2. The Inspector of Police
All Women Police Station
Paramakudi,
Ramanathapuram District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

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