



Crl.O.P.(MD)No.2893 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2025

WEB COPY

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.2893 of 2025

Alaguraja

.. Petitioner

Vs.

The Inspector of Police
Sattur Taluk Police Station
Virudhunagar District

.. Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records and set aside the order dated 08.01.2025 made in Cr.M.P.No.1 of 2024 in S.C.No.45 of 2023 on the file of the Sub Ordinate Court, Sattur.

For Petitioner	: Mr.S.Poornachandran for Mr.J. Leo Daniel Kavlin
For Respondent	: Mr.M.Sakthikumar Government Advocate(Crl.Side)

ORDER

This Criminal Original Petition has been filed to set aside the order passed in Cr.M.P.No.1 of 2024 dated 08.01.2025 by the Assistant Sessions Judge, Sub Ordinate Court, Sattur in S.C.No.45 of 2023



WEB COPY

2. The learned counsel appearing for the petitioner would submit that the petitioner is the accused in this case. The prosecution has examined P.W.1 to P.W.16 on behalf of the petitioner. P.W.7 to P.W.9 alone were cross examined but other witnesses were not cross examined. On the date of examination of witnesses the learned Senior Counsel appearing for the petitioner attended the High Court and that the petitioner is also in custody thereby he is unable to instruct the counsel, therefore the witnesses were not cross examined on that particular date. The non cross examination of witness is neither wilful nor wanton. Thereafter he filed a petition to recall the witness but the trial Court dismissed the petition dis believing the reasons stated by the petitioner. Therefore inorder to give a fair chance to the petitioner and to meet the ends of justice the witnesses have to be recalled for cross examination and hence 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 on the side of the prosecution P.W.1 to P.W. 16 were examined. Among the witnesses P.W.7 to P.W.9 alone were cross examined. Though sufficient opportunities were given to the



petitioner he failed to avail those opportunities and the reasons stated by the petitioner are not acceptable and trial Court has passed a well reasoned order and thereby the petition is liable to be dismissed.

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

5. In this case it is admitted fact that the petitioner is in judicial custody. According to the petitioner P.W.1 to P.W. 16 were examined. Except P.W.7 to P.W.9 all other witnesses have not been cross examined. The reason for non cross examination is that his counsel went to high court to attend some other case, thereby unable to cross examine the witnesses. He filed a petition before the trial Court and the same was dismissed by the trial court by observing that sufficient chance was given to the petitioner and the reasons stated by the petitioner are not acceptable. The charges levelled against the petitioner are grave in nature and the petitioner has not cross examined the witnesses, therefore inorder to give fair chance to the petitioner the trial Court ought to have allowed the petition since the prosecution witnesses were not cross examined except P.W.7 to P.W.9. According to the learned counsel appearing for the petitioner his counsel was unable cross examine the witnesses, since he



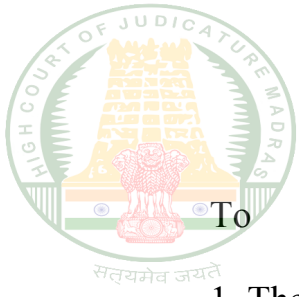
Crl.O.P.(MD)No.2893 of 2025

attended High Court in another case. Taking into consideration the gravity of offence and in order to give one more chance to the petitioner and to meet the ends of justice this Court is inclined to allow the petition. Moreover the trial Court disbelieved the reasons stated by the petitioner and failed to consider that this is the first time the petitioner has filed the petition and also the fact that the petitioner is in custody, therefore the order passed by the trial Court is liable to be set aside.

6. In view of the same, the Criminal Original Petition stands allowed and the order passed by the Assistant Sessions Judge, Subordinate Court, Sattur in S.C.No.45 of 2023 in Cr.M.P.No.1 of 2024 dated 08.01.2025 is set aside. The petitioner shall deposit a sum of Rs. 1000/- as costs to each of the witnesses before the trial Court. After deposit of the amount the trial Court is directed to issue summons to the petitioner by fixing the date for cross examination of witnesses and the petitioner shall cross examine the witnesses without any further delay.

17.02.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
aav



Crl.O.P.(MD)No.2893 of 2025

- To
1. The Sub Ordinate Court, Sattur
 2. The Inspector of Police
Sattur Taluk Police Station
Virudhunagar District
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

WEB COPY



WEB COPY



Crl.O.P.(MD)No.2893 of 2025

P.DHANABAL,J.

aav

Crl.O.P.(MD)No.2893 of 2025

17.02.2025