



*CrI.O.P(MD) No.3000 of 2025*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2025

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**THE HON'BLE MR.JUSTICE P.DHANABAL**

CrI.O.P(MD) No.3000 of 2025

Gletus So Allwin @ Gletus Sornappan Allwin ... Petitioner

Vs.

The Inspector of Police  
South Thamaraikulam Police Station  
Kanyakumari District

..Respondent

**PRAYER :** Criminal Original Petition filed under Section 528 of BNSS,  
to call for records in Cr.M.P.Mp/8 of 2025 in C.C. No.110 of 2021 on  
the file of the learned Judicial Magistrate/Additional Mahila Court,  
Nagercoil dated 20.01.2025 and set aside the same.

For Petitioner : Mr.S.Muniyandi

For Respondent : Mr. M.Vaikkam Karunanithi  
No.1 Government Advocate(Crl side)



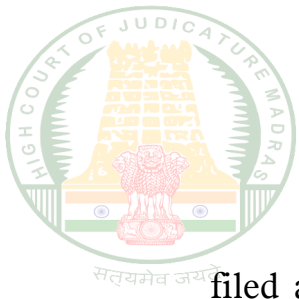
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## **ORDER**

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This Criminal Original Petition has been filed to set aside the order passed by the learned Judicial Magistrate/Additional Mahila Court, Nagercoil in Cr.M.P.M.P.No.8 of 2025 in C.C. No.110 of 2021 dated 20.01.2025.

2. The learned counsel appearing for the petitioner would submit that the petitioner is the fourth accused in this case and he is facing trail in C.C.No.110 of 2021 on the file of the learned Judicial Magistrate, Additional Mahila Court, Nagercoil for the offences under Sections 147,148,294(b),341,323,324,506(ii), 153(a)295 of IPC and Section 4 of TNPHW Act. The petitioner is working in abroad for his livelihood and he filed an application for passport before the passport office in File No.MD1066945824924. The passport officer has not issued the passport due to the pendency of the above criminal case. He was implicated as an accused only for the policital motive. He already sent a detailed explanation to the passport officer but the same has not been considered under Section 22 of the passport Act and Government Gazette Notification G.S.R.570€ dated 25.08.1993. Thereafter the petitioner has



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filed a petition in CrI.M.P.No. 8 of 2025 before the learned Judicial Magistrate, Additional Mahila Court, Nagercoil but the same was dismissed by the learned Magistrate on the ground that if the passport is given to the petitioner he will not attend the Court and the trial proceedings will be affected. Challenging the said order the present petition has been filed. He would further submit that one of the accused filed a petition before this Court for grant of passport in CrI.O.P(MD) No.18999 of 2024 and the same was allowed , therefore the same benefit may be extended to this petitioner also.

3. The learned Government Advocate(CrI.Side) appearing for the respondent would submit that the petitioner is arrayed as fourth accused in this case and the case is posted for trial. Further the offences are grave in nature. At this juncture the petitioner has filed a petition before the learned Magistrate to return his passport but the same was dismissed by observing that if the passport is given the petitioner will go abroad then he will not appear before the trial Court and thereby the trial will be stalled, hence he seeks to dismiss the petition.



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

5. The petitioner has filed a petition before the trial Court to grant passport to the petitioner but the trial Court dismissed the petition due to the pendency of the above case. The petitioner is only a under trial prisoner and not a convict prisoner . The offences charges against the petitioner are not so serious. The petitioner due to his livelihood has to go to abroad for job purpose and he assures that he will appear before the trial Court for every hearing if his presence is very much essential otherwise he will file an application through his advocate .Further the case is now posted for trial. The only reason stated by the trial Court is to ensure the presence of the petitioner for trial. In all cases the personal appearance of the accused are not essential and the petitioner can file petition through his advocate for dispensing with the personal appearance of the petitioner and the petitioner can very well appear before the trial Court if his presence is very much required for that case. The reasons stated by the trial Court for dismissal of the petition is unsustainable, therefore the order passed by the learned Magistrate is liable to be set aside.



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6. In view of the same, the order passed by the trial Court is set aside and learned Judicial Magistrate, Additional Mahila Court, Nagercoil is directed to issue No Objection Certificate to return the passport of the petitioner with certain conditions. The petitioner is also directed to appear before the trial Court whenever his presence is very much essential otherwise he will file an appropriate application through his counsel for dispensing with personal appearance.

7. With the above direction, the Criminal Original Petition stands disposed of.

**28.02.2025**

NCC : Yes / No

Index : Yes / No

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To

1. The Judicial Magistrate/Additional Mahila Court, Nagercoil

2. The Inspector of Police  
South Thamaraikulam Police Station  
Kanyakumari District

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



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**P.DHANABAL, J.**

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