



*CrI.O.P.(MD)No.2936 of 2024*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **18.12.2025**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

CrI.O.P.(MD)No.2936 of 2024

and

CrI.M.P.(MD).No.2304 of 2024

S.Pandi Sridhar

... Petitioner

Vs.

S.J.Kuppusamy

... Respondent

PRAYER : Petition filed under Section 528 of BNSS, 2023 to call for the records connected with the order in CrI.M.P.No.1104 of 2024 in S.T.C.No.874 of 2016 dated 13.02.2024 on the file of the learned Judicial Magistrate No.II, Fast Track Judge (M.L) at Madurai, and set aside the same as illegal.

For Petitioner : Mr.A.Raja

For Respondent : Mr.G.Mohankumar

### **ORDER**

Seeking to set aside the order passed by the learned Judicial Magistrate No.II, Fast Track Judge (M.L) at Madurai, in CrI.M.P.No.1104 of 2024 in S.T.C.No.874 of 2016 dated 13.02.2024, this Criminal Original Petition is filed.



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2.The petitioner is the accused in S.T.C.No.874 of 2016. The petitioner had filed an application under Section 311 Cr.P.C., to recall P.W.1 for cross examination stating the reason that due to a mistake and misunderstanding regarding the stage of the case, P.W.1 was not cross-examined. However, the learned trial Judge had dismissed the application by the impugned order dated 13.02.2024. Challenging the same, this criminal Original Petition is filed.

3.The learned counsel appearing for the petitioner, Mr.A.Raja, submitted that the trial Court failed to appreciate the facts independently with regard to the averments made in the petition. It is the constitutional right of the accused under Article 21 to prove his innocence and therefore, he ought to have been permitted to cross-examine the P.W.1. The maxim “Justice hurried is justice buried” applies to the present case, as the trial Court, without appreciating the real facts, failed to afford an opportunity to cross-examine P.W.1. Hence, the petitioner seeks the indulgence of this Court to set aside the impugned order.

4.Per contra, Mr.G.Mohankumar, learned counsel appearing for the Respondent submitted that there is no infirmity in the impugned order. In fact, P.W.1 was examined in chief on 02.02.2018 and the matter was posted for



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cross-examination on 12.02.2018, 05.03.2018, 19.03.2018 and 06.04.2018, on which date cross examination of P.W.1 was *suo motu* closed. Thereafter, a recall application was filed to recall P.W.1 for cross-examination in CrI.M.P.No.4804 of 2018 and the same was allowed on 06.07.2018 without any cost. Even thereafter, when the case was pending for cross-examination of P.W.1 from 16.07.2018 to 02.01.2019, the petitioner failed to avail the opportunity and hence, once again the cross-examination of P.W.1 was *suo motu* closed. Thereafter, the present application came to be filed stating that, due to a misunderstanding regarding the stage of the case, the petitioner was unable to cross-examine P.W.1. However, negating the said reason as unreasonable and unbelievable, the learned Trial Court dismissed the petition seeking to recall P.W.1, holding that the application was filed only to protract the trial. He further pointed out that the case is of the year 2016 and the petitioner has stage-managed to protract the trial for six long years and despite having given sufficient opportunity of hearing, he had not availed opportunity for cross-examination P.W.1, and once again he is trying to protract the proceedings and sought for dismissal of this petition.

5.Per contra, the learned counsel appearing for the petitioner submitted that the delay in concluding the trial could be attributed to the pandemic, which



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intervened during the proceedings. He further submitted that the learned Trial Court ought to have appreciated the right of the accused to a fair trial and pressed for allowing the present petition.

6.Heard on either side and perused the materials available on record.

7.A careful reading of the Impugned order and the materials placed before this Court would make it clear that the petitioner had failed to avail several opportunities afforded by the Trial Court for cross-examination P.W.1. Hence, I do not find any infirmity in the impugned order passed by the Learned Trial Court in rejecting the petitioner's reasoning for filing the application under Section 311 Cr.P.C. belatedly.

8.Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Criminal Miscellaneous Petition is closed.

**18.12.2025**

NCC : Yes / No  
Index : Yes / No  
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**TO:-**

- 1.The learned Judicial Magistrate No.II,  
Fast Track Judge (M.L) at Madurai.



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**L.VICTORIA GOWRI, J.**

vsg

Order made in  
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Dated  
18.12.2025