



CRL.OP(MD) NO.4543 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL.O.P(MD) No.4543 of 2025

and CRL.M.P(MD) No.3234 of 2025

Ravi

... Petitioner

Vs.

The State of Tamil Nadu,
Represented by the Sub Inspector of Police,
Taluk Police Station,
Paramakudi,
Ramanathapuram District.
Crime No.63 of 2019.

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to call for the records and set aside the order passed in Crl. M.P.No.1243 of 2024 on the file of the learned Judicial Magistrate, Paramakudi, Ramanathapuram District dated 28.01.2025, by allowing this Petition.

For Petitioner : Mr. A.Arputharaj

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



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ORDER

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This petition has been filed by the petitioner to set aside the order passed by the Trial Court in Crl.M.P.No.1243 of 2024 in C.C.No.529 of 2019 dated 28.01.2025 on the file of the learned Judicial Magistrate, Paramakudi.

2. The learned counsel appearing for the petitioner would submit that the petitioner is the accused in this case and already the prosecution witnesses were examined. While examining the P.W.5, due to Advocates boycott and also ill-health of the petitioner's counsel he was unable to examine the P.W5, who is the investigation officer in this case and thereby, the petitioner filed a petition to recall the P.W.5 for cross-examination and the same was dismissed on the ground that the boycott of the Advocates is not a ground for non cross-examination of the witness. The Trial Court failed to consider that due to ill-health of the petitioner's counsel, he was unable to cross-examine the witness and so far, the P.W5 has not been cross-examined and in order to ensure the fair trial, an opportunity has to be given to the petitioner. Therefore, the order passed by the Trial Court is liable to be quashed.

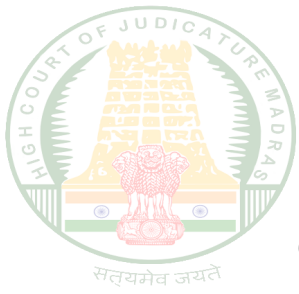


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3. The learned Government Advocate (Criminal Side) appearing for the respondent would submit the petitioner is the accused in this case and already they cross-examined other witnesses and P.W.5 was examined on 21.11.2024, but on that date, the petitioner failed to cross-examine the witness (P.W5). Now the case is posed for defence witness and the Trial Court also passed a reasoned order. Therefore, at this stage, the present petition is liable to be dismissed.

4. This Court heard both sides and perused the records.

5. It is an admitted fact that the P.W5 was examined on 21.11.2024, but not cross-examined by the petitioner. The reason stated by the petitioner is that due to Advocates boycott and ill-health of the petitioner's counsel, he was unable to appear before the Court and cross-examine the P.W5. The Trial Court in the order has also stated that the Advocates boycott is not a ground for recall the witness, but failed to consider that P.W.5 was not cross-examined and this petition is also the first petition. The Trial Court ought to have permitted the petitioner to cross-examine the witness (P.W5) to ensure the fair trial. Therefore, the order passed by the Trial Court is liable to set aside.



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6. Accordingly, this criminal original petition is allowed and the order passed by the trial Court in Crl.M.P.No.1243 of 2024 in C.C.No.529 of 2019 dated 28.01.2025 on the file of the learned Judicial Magistrate, Paramakudi is set aside. The petitioner is directed to pay a sum of Rs. 1000/- [Rupees one Thousand only] for cost to the witness, before the Trial Court within a period of fifteen [15] days from the date of this Order. Thereafter, the Trial Court has to issue summon to the P.W.5- Investigating Officer by fixing a date for cross-examination and on that date, the petitioner has to cross-examine the witness. Consequently, connected criminal miscellaneous petition is closed.

12.03.2025

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

1. The Sub Inspector of Police,
Taluk Police Station,
Paramakudi,
Ramanathapuram District.

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



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P.DHANABAL.J,

Mac

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