

CrI.O.P(MD)No.5312 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.03.2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

CrI.O.P(MD)No.5312 of 2025
and CrI.M.P(MD) No.3831 of 2025

1. Ajithkumar

2. Alagujoithi

... Petitioners

Vs

The State of Tamilnadu,
Rep by the Inspector of Police,
All Women Police Station,
Nilakottai,
Dindigul District.
Crime No.03 of 2024.

... Respondent

PRAYER: Criminal Original petitions have been filed under Section 528 of BNSS to call for the records pertaining to the order impugned, dated 04.03.2025 in M.P.No.02 of 2025 in Spl.S.C.No.39 of 2024 on the file of the Mahila Fast Track Court, Dindigul and set aside the same as illegal.

For Petitioners : Mr. Pandiyarajan. K

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



CrI.O.P(MD)No.5312 of 2025

ORDER

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This criminal original petition has been filed to set aside the impugned order, dated 04.03.2025 in M.P.No.02 of 2025 in Spl.S.C.No.39 of 2024 on the file of the Fast Track Mahila Court, Dindigul.

2.The learned counsel appearing for the petitioners would submit that the petitioners are arrayed as A1 and A2 in Spl.S.C.No.39 of 2024. In this case, totally 21 witnesses were listed, out of which, 13 witnesses were examined in chief and so far, cross examination is not done. Therefore, the petitioners have filed a petition to recall the witness of P.W.1 to P.W.13 for cross examination and the same was partly allowed by the trial Court to the effect of recalling PW2 to PW5, PW12 and PW13 alone on payment of cost. Challenging the same, this petition has been filed.

3.The learned Government Advocate (CrI.Side) appearing for the respondent police would submit that considering the nature of offence, the trial Court has allowed the petitioners to recall the witnesses PW2 to PW5, PW12 and PW13. Since PW1 is the victim girl and PW9 is the hostile witness, the trial Court rightly dismissed the petition. There is no infirmity



CrI.O.P(MD)No.5312 of 2025

in the order passed by the trial Court.

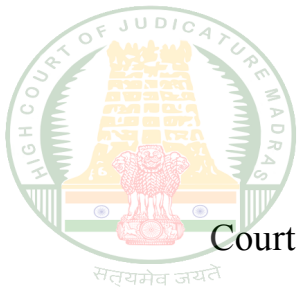
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4.At this juncture, the learned counsel for the petitioners prays to grant permission to recall P.W.1 only, since she is the main witness in this case.

5.Heard the learned counsel on either side and perused the records available on record.

6.It is seen from the records that in the impugned order, the trial Court has permitted the petitioners to recall PW2 to PW5, PW12 and PW13 and not allowed them to recall PW1 and PW9. Since PW9 is a hostile witness, the petitioners themselves did not want to cross-examine PW9. However, in order to prove their case, the petitioners seek permission to cross-examine PW1, who is the victim.

7.In this case, PW1 is not at all cross-examined on the petitioners' side. It is the contention of the petitioners that in order to prove their case, PW1 has to be cross-examined. On considering the nature of offence, this



CrI.O.P(MD)No.5312 of 2025

Court is inclined to give one more opportunity to the petitioners to cross-examine PW1.

8.In the result, this Criminal Original Petition is partly allowed and the impugned order, dated 04.03.2025 in M.P.No.02 of 2025 in Spl.S.C.No.39 of 2024 on the file of the Mahila Fast Track Court, Dindigul is confirmed as against the order passed in respect of PW9 and set aside as against the order passed in respect of PW1. The petitioners are directed to deposit a sum of Rs.1,000/- (Rupees One Thousand only) towards cost to the witness/PW1, to be deposited before the trial Court. After such deposit being made, the trial Court is directed to issue summons to PW1 by fixing the date for cross-examination by the petitioners/accused. The petitioners are directed to cross-examine the witness/PW1 on the same day without getting further adjournment. The impugned order, dated 04.03.2025 remains unaltered as far as the other conditions.



CrI.O.P(MD)No.5312 of 2025

9.In view of the above terms, this petition is allowed.

Consequently, connected miscellaneous petition is closed.

24.03.2025

Internet :Yes
NCC :Yes/No
PNM

To

1. The Judge, Fast Track Mahila Court, Dindigul

2.The Inspector of Police,
All Women Police Station,
Nilakottai,
Dindigul District.
Crime No.03 of 2024.

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



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CrI.O.P(MD)No.5312 of 2025

P. DHANABAL, J.

PNM

**CrI.O.P(MD)No.5312 of 2025
and CrI.M.P(MD) No.3831 of 2025**

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