



CRL.OP(MD) NO.5925 of 2025

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 01.04.2025**

**CORAM:**

**THE HONOURABLE MR.JUSTICE P.DHANABAL**

CRL. O.P(MD) No.5925 of 2025

and

CRL. M.P.(MD) No.4325 of 2025

Manikandan

... Petitioner

**Vs.**

1.The State of Tamil Nadu,  
rep by the Deputy Superintendent of Police,  
Periyakulam Sub Division,  
Jeyamangalam Police Station,  
Theni District.  
(Crime No.46 of 2020)

2.Rubandeva

... Respondent

**PRAYER:**Criminal Original Petition filed under Section 528 of Bharatiya  
Nagarik Suraksha Sanhita (BNSS), 2023 to set aside the impugned order  
dt. 28.01.2025 in Cr.M.P No. 1/2025 in Spl S.C no. 186/2020 on the file  
of the Learned Special Court for Trial of cases under SC/ST (POA) Act,  
Theni by allowing the criminal original petition.



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For petitioner : Mr.R.Shankar Ganesh

For R1 : Mr.M.Sakthi Kumar,  
Government Advocate (Crl.Side)

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**ORDER**

This petition is filed by the petitioner to set aside the order passed by the Trial Court in Cr.M.P.No.1 of 2025 in Spl.S.C.No.186 of 2020.

2. The learned counsel for the petitioner would submit that the petitioner is the accused in the case and already P.W.1 to P.W.7 were examined in this case. On the date of examination of P.W.7, the petitioner's counsel went to Sabarimala and hence, he unable to cross-examine the witness. Immediately, on the next date of hearing, the petitioner filed a petition to recall the witness/P.W.7, but the Trial Court failed to consider the same and dismissed the application. Therefore, he filed this petition.

3. The learned Government Advocate (Crl.Side) for the first respondent would submit that already P.W.7 was examined on 17.12.2024, but on that date, the petitioner failed to cross-examine the



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witness. Therefore, the Trial Court has passed the reasoned order and

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hence, the present petition is liable to be dismissed.

4. Heard both sides and perused the records.

5. It is an admitted fact that P.W.7 was examined on 17.12.2024. On that date, he was not cross-examined and the reason stated by the petitioner is that the petitioner's counsel went to Sabarimala and thereby, he unable to cross-examine the witness. To recall P.W.7, the petitioner filed a petition in Cr.M.P.No.1 of 2025, but the Trial Court dismissed the petition by stating that the counsel went to Sabarimala, cannot be accepted as a valid reason. However, the Trial Court failed to consider that P.W.7 was not even cross-examined by the petitioner.

6. Thereby, in order to give a fair chance to the petitioner and to meet the ends of justice, it is appropriate to set aside the order passed by the Trial Court.

7. Accordingly, this Criminal Original Petition is allowed and the order passed by the Trial Court in Cr.M.P.No.1 of 2025 is set aside and



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the petitioner is directed to pay a sum of Rs.1,000/- before the Trial Court towards the cost to the witness and depositing the same before the Trial Court. Thereafter, the Trial Court is also directed to issue summon to P.W. 7 by fixing a particular date. On that date, the petitioner has to cross-examine the witness without fail. Consequently, connected miscellaneous petition is closed.

**01.04.2025**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
apd

To

1.The Deputy Superintendent of Police,  
Periyakulam Sub Division,  
Jeyamangalam Police Station,  
Theni District.

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



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**P.DHANABAL,J**

apd

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**01.04.2025**