



Crl. O.P.(MD) No. 6160 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl. O.P. (MD) No. 6160 of 2025

1. Muthu @ Kanagamuthu,

2. Essaikyammal,

3. Arumugadoss.

... Petitioners

Vs

The State of Tamilnadu,
Rep by the Sub Inspector of Police,
Thisayanvilai Police Station,
Tirunelveli District.
Crime No.252 of 2022.

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 to set aside the order passed in M.P.No.1 of 2024 in C.C.No.54 of 2023 dated 13.11.2024 on the file of the learned District Munsif cum Judicial Magistrate, Radhapuram and allow the recall petitioner filed by the petitioners.



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For petitioner : Mr. K.Muthuvai Ilayaraja

For respondents : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

The petitioners have sought setting aside the order passed in M.P.No.1 of 2024 in C.C.No.54 of 2023 dated 13.11.2024. By the said order, the learned Magistrate had allowed the petition filed under Section 311 of Cr.P.C. to recall the witnesses by the petitioners, who are arrayed as accused Nos.1 to 3 in C.C.No.54 of 2023.

2. The learned Magistrate had imposed a condition to deposit a sum of Rs.500/- to the petitioners to DLSA, Tirunelveli with further direction to pay Rs.250/- each to the witnesses to cross-examine the witnesses P.W.1 and P.W.2 on the same day.

3. The learned counsel for the petitioners would submit that since the petitioner's counsel did not inform the petitioner about the order, the petitioner



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could not make the deposit as was directed and hence, pursuant to the order impugned, the petition stood dismissed automatically; that he is now be ready to comply with the conditions imposed by the Court. He would further submit that no prejudice would be caused to the respondents, since the prosecution had not closed their evidence so far.

4. The learned Additional Public Prosecutor would submit that totally 10 witnesses have been sought by the prosecution and now four more witnesses have to be examined on the side of the prosecution.

5. The petitioners had not complied with the conditional order imposed by the learned Magistrate and this Court finds no infirmity in the order passed by the learned Magistrate. However, considering the fact that the prosecution had not closed its evidence so far, this Court is of the view that the petitioners can be afforded one more opportunity to cross-examine P.W.1 and P.W.2.



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6. Accordingly, this Court issues the following directions:

a. The petitioners are permitted to recall P.W.1 and P.W.2 on payment of cost of Rs.2,000/- each to the witnesses on their appearance besides depositing a sum of Rs.1000/- to DLSA, Tirunelveli within one week from the date of receipt of this order;

b. Both the witnesses shall be cross-examined on the same day fixed by the learned Magistrate;

c. Failure to avail the opportunity to cross-examine on the date fixed by the learned Magistrate or failure to make a deposit as directed in this order, this petition would be treated as dismissed. In the meanwhile the learned Magistrate may proceed with the examination of the other witnesses.

7. With the above observations, this Criminal Original Petition is disposed of.

Index : Yes / No
Internet : Yes / No
apd

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To

1.The Sub Inspector of Police,
Thisayanvilai Police Station,
Tirunelveli District.

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



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SUNDER MOHAN, J.

apd

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