



CRL.OP(MD) No.6940 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL. OP(MD) No.6940 of 2025

and CRL.MP(MD) No.5091 of 2025

Karthick

... Petitioner

Vs

The State of Tamil Nadu,
Represented by the Inspector of Police,
Pudukkottai Town Police Station,
Pudukkottai.
Crime No. 93 of 2015.

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to call for the records of the order in Crl.M.P.No.254 of 2025 in C.C.No. 213 of 2015 on the file of the Judicial Magistrate No.I, Pudukkottai, dated 14.03.2025 and set aside the same.

For Petitioner : Mr. D.Rameshkumar

For Respondent : Mr.M.Sakthi Kumar

Government Advocate (Crl. Side)



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ORDER

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2. The learned counsel appearing for the petitioner would submit that the petitioner is the 2nd accused in this case and he filed a petition to recall the P.W5 and the same was dismissed. In fact, the P.W5 was examined on 24.02.2025. But, on that date, due to out of station of the counsel for the petitioner, he was unable to cross-examine the witness and thereby, the trial Court closed the evidence of P.W5 and without considering the same, the trial Court dismissed the petition. In order to give a fair chance to the petitioner, one more chance may be given to the petitioner. Therefore, the order passed by the trial Court is liable to be set aside.

3. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the P.W5 was examined on 24.02.2025 and the petitioner wantonly failed to cross-examine the witness. Therefore, the trial Court passed a reasoned order and the petition is liable



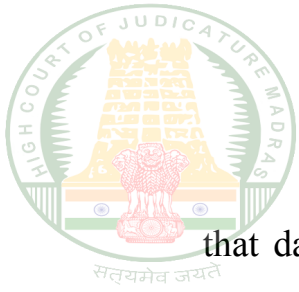
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to be dismissed.

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4. Heard both sides and perused the records.

5. This petition is filed to set aside the order passed by the trial Court by dismissing the petition filed to recall the P.W.5 for cross-examination. The reason stated by the petitioner for non cross-examination on the date of chief-examination of P.W.5 is that the counsel was not available on that date. Though it is not a valid ground, however, P.W5 was not cross-examined and the offences also serious in nature, therefore, in order to give a fair chance to the petitioner, the trial Court ought to have allowed the petition. This petition is also the first petition and therefore, to meet the end of justice and to ensure a fair trial, this petition has to be allowed. Accordingly, this Criminal Original Petition is allowed and the order passed in CrI.M.P.No.254 of 2025 in C.C.No. 213 of 2015 dated 14.03.2025 on the file of the Judicial Magistrate No.I, Pudukkottai is set aside. The petitioner is directed to deposit a sum of Rs. 1000/- [Rupees Thousand Only] before the trial Court for cost to the witness. On such deposit being made by the petitioner, the trial Court is directed to issue summon to the P.W5 by fixing a particular date and on



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that date, the petitioner has to cross-examine the witnesses without fail.

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Consequently, connected Criminal Miscellaneous Petition is closed.

17.04.2025

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

1. The Judicial Magistrate No.I, Pudukkottai.
2. The Inspector of Police,
Pudukkottai Town Police Station,
Pudukkottai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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P.DHANABAL, J.

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