



Crl.O.P.(MD)No.11302 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2025

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD)No.11302 of 2025
and Crl.M.P.(MD)No.8560 of 2025

1. Muthulakshmi
2. Gomathi
3. Nallasamy

... Petitioners

versus

State of Tamil Nadu,
Rep. by the Inspector of Police,
DCB Unit-I,
Madurai.

...Respondent

Prayer : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to the impugned order passed by the Judicial Magistrate Court No.I, Madurai, in Crl.M.P.No.1044 of 2024 in C.C.No. 1302 of 2022 dated 09.06.2025 and to set aside the same and allow this Criminal Original Petition and direct the learned Judicial Magistrate No.I, Madurai, to provide a fair opportunity of cross examination of prosecution witness.

For Petitioners : Mr.M.R.Sreenivasan

For Respondent : Mr.A.S.Abul Kalaam Azad,
Government Advocate (Crl. Side)



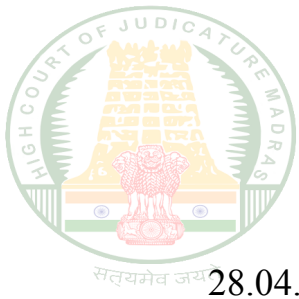
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ORDER

The petitioners are accused Nos.1 to 3 in C.C.No.1302 of 2022. They are facing a charge before the Judicial Magistrate Court No.I, Madurai, in C.C.No.1302 of 2022 for the offence under Sections 120B, 323, 420, 406 and 506(ii) IPC. In this case, the respondent Police have examined 11 witnesses. But, the petitioners have failed to cross examine all the 11 witnesses. Therefore, they have filed a petition before the learned Judicial Magistrate No.I, Madurai, under Section 311 Cr.P.C., in C.M.P.No.1044 of 2024, seeking to recall P.W.1 to P.W.12. The learned Judicial Magistrate, by his order dated 09.06.2025, dismissed the said petition. Aggrieved over the same, the petitioners have filed this petition.

2. It appears that L.W.1 to L.W.5 were examined as P.W.1 to P.W.5 on 12.08.2024, but, P.W.4 turned hostile. P.W.6 to P.W.8 were examined on 06.09.2024, 03.10.2024 and 16.10.2024 respectively, but, P.W.8 turned hostile. P.W.9 to P.W.11 were examined on 23.10.2024, 07.11.2024 and 09.11.2024 respectively. The prosecution evidence was completed on 06.03.2025 itself. Thereafter, the case was posted for defence side evidence on 24.03.2025. Though the case was adjourned from 24.03.2025 to



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28.04.2025 for defence side evidence, the petitioners have not adduced any evidence. Therefore, the case was posted for arguments on 24.09.2025. In these circumstances, when the case was posted for arguments, the petitioners have filed a petition in C.M.P.No.1044 of 2024 under Section 311 Cr.P.C. to recall P.W.1 to P.W.12. Further, this Court has already issued a direction to the trial Court to conclude the trial within a period of five months. Pursuant to the same, the trial Court has conducted the case on day-to-day basis. But, the petitioners have not co-operated for trial and they have filed a petition under Section 311 Cr.P.C. to recall the witnesses P.W.1 to P.W.12, when the case has been posted for arguments.

3. Considering the conduct of the petitioners in getting adjournments from 24.03.2025 to 28.04.2025 and not taking any action to cross examine the witnesses who are present before the trial Court, this Court is not inclined to entertain this petition. However, the petitioners are facing offences under Sections 120B, 323, 420, 406 and 506(ii) IPC. Therefore, in order to provide one opportunity to the petitioners to cross examine the witnesses, this Court is inclined to permit the petitioners to cross examine the witnesses, however, with costs.



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4. Accordingly, this Criminal Original Petition is allowed and the order passed by the Judicial Magistrate Court No.I, Madurai, in Crl.M.P.No. 1044 of 2024 in C.C.No.1302 of 2022 dated 09.06.2025 is hereby set aside.

5. The petitioners shall deposit a sum of Rs.5,000/- (Rupees five thousand) for each witnesses before the trial Court, within a period of four (4) weeks from the date of receipt of a copy of this order and file necessary application to recall the witnesses. The trial Court shall fix the date for cross examination of those witnesses. The petitioners are expected to cross examine the witnesses on the day when the witnesses are present. In the event, if the petitioners fail to cross examine the witnesses on that day, the trial Court shall proceed with the available materials and pass suitable orders. Consequently, connected miscellaneous petition is closed.

04.07.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes
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- To
1. The Judicial Magistrate Court No.I,
Madurai.
 2. The Inspector of Police,
DCB Unit-I,
Madurai.
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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