



CrI.O.P.(MD)No.12992 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2025

CORAM:

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CrI.O.P(MD).No.12992 of 2025
and
CrI.M.P(MD)No.10205 of 2025

1. Jackson @ Jackeyjohn
2. Koolpandi
3. Sharma
4. Eswari

... Petitioners

Vs.

1. The State through,
Deputy Superintendent of Police,
Uthamapalayam Sub Division,
Rayappanpatti Police Station,
Rayappanpatti, Theni District.
(Crime No.262 of 2014)

2. Veni

... Respondents

Prayer: Criminal Original Petition has been filed under Section 528 of BNSS to call for the records pertaining to the order passed by the learned Special Court for Trial of Cases under SC/ST (POA) Act, Theni in Cr.M.P.No.146 of 2025 in Special S.C.No.18 of 2020 dated 17.07.2025 and set aside the same by allowing this Criminal Original Petition.



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For Petitioner
For R1

: Mr.M.Kannan
: Mr.A.S.Abul Kalaam Azad
Government Advocate (CrI.Side)

ORDER

The petitioners are accused in Spl.S.C.No.18 of 2020, which is pending before the Special Court for Trial of Cases under SC/ST (POA) Act, Theni. They have filed an application in Cr.M.P.No.146 of 2025 to recall P.W.17/Investigation Officer. The same was rejected by the Trial Court by order dated 17.07.2025, that this application has been filed in order to drag on the proceedings. Aggrieved by that the petitioners have filed this application.

2. The learned counsel appearing for the petitioners submitted that these petitioners are facing serious charges for the offence under Section 302, 506 (ii) and 109 of IPC read with Section 3(1)(x)(s) of SC/ST Act before the Trial Court. According to them, the trial in Spl.S.C.No.18 of 2020 has commenced on 28.10.2021. P.W.1 and P.W.2 were examined in chief on 28.10.2021, P.W.3 was examined on 14.03.2022, P.W.4 and P.W.5 were examined on 11.04.2023, P.W.6 was examined on 27.10.2022 and thereafter, P.W.7 was examined on 14.12.2023. However, the petitioners'



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counsel has not cross examined these witnesses who were examined from 28.10.2021 to 14.12.2023. Thereafter, the petitioners have filed change of Vakalat on 19.02.2024 by changing the counsel and filed an application for recalling the P.W.1 to P.W.7 on 07.11.2024. The same was dismissed by the Trial Court on 04.12.2024. That order of the learned Judicial Magistrate rejecting the request of the petitioners for recalling and for cross-examination of P.W.1 to P.W.7 dated 04.12.2024, was challenged before this Court in Crl.O.P.(MD)No.2556 of 2025.

3. The learned counsel for the petitioner claimed that in view of the pendency of the application before this Court in Crl.O.P.(MD)No.2556 of 2025, the petitioner has failed to cross-examine P.W.17, when he was examined in chief on 28.01.2025. He further submitted that the application filed by the petitioners in Crl.O.P.(MD)No.2556 of 2025 for cross-examination of P.W.1 to P.W.7, was allowed by this Court by an order dated 12.02.2025. Only thereafter, this application has been filed on 18.06.2025 to recall P.W.17. He further submitted that in the event if the P.W.17/Investigation Officer is not examined in cross, then they would be greatly prejudiced.



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4. The learned Government Advocate (Crl.Side) raised serious objections that this application has been filed in order to drag on the proceedings, which is pending in Spl.S.C.No.18 of 2020. According to him, the petitioners, pending the application in Crl.O.P(MD)No.2556 of 2025, have cross-examined the witnesses P.W.8, to P.W.16, when they were examined in chief on 06.06.2024. However, they failed to cross-examine P.W.17, alone when he was examined in chief on 28.01.2024.

5. The learned Government Advocate (Crl.Side) has also pointed out that the P.W.17 is the Investigation Officer in Spl.S.C.No.18 of 2020. He is a retired Additional Superintendent of Police residing in Tirunelveli. The trial is now pending before the learned Special Court for Trial of Cases under SC/ST (POA) Act, Theni. He further contended that even though this Court has allowed the application filed by the petitioners in Crl.O.P.(MD)No.2556 of 2025 as on 12.02.2025 itself, the petitioners have filed this application for recalling P.W.17 only on 18.06.2025 intentionally to evade the proceedings. Therefore, he prayed for dismissal.



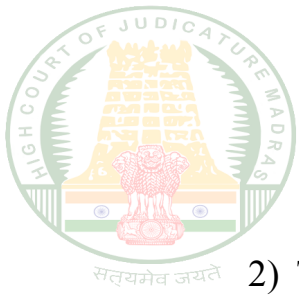
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6. This Court considered the rival submissions made and perused the materials available on records.

7. It appears that these petitioners have dragged the proceedings by not cross-examining the witnesses whenever they were examined in chief. This Court is not inclined to approve the conduct of the petitioners. However, considering the nature of offence they are facing in the trial in Spl.S.C.No.18 of 2020, this Court is inclined to consider this application, however with a cost. Therefore, the impugned order in Cr.M.P.No.146 of 2020 in Spl.S.C.No.18 of 2020 dated 17.07.2025 is set aside with a direction to the petitioner to pay a sum of Rs.15,000/- (Rupees Fifteen Thousand Only) to P.W.17. Accordingly, the petition is disposed with the following directions:-

- 1) Impugned Order dated 17.07.2025 in Cr.M.P.No.146 of 2020 in Spl.S.C.No.18 of 2020 is set aside;



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- 2) The petitioners are at liberty to file a fresh application along with a Demand Draft for a sum of Rs.15,000/- (Rupees Fifteen Thousand Only) in favour of P.W.17;
- 3) The Trial Court shall fix a date depending upon the convenience of P.W.17 and fix the date for cross examining of P.W.17;
- 4) On that date, the petitioners have to cross-examine P.W.17 without fail. The Demand Draft of Rs.15,000/- (Rupees Fifteen Thousand Only) drawn in favour of P.W.17 shall be handed over by the Court to the P.W.17 on the date of his examination;
- 5) No costs. Consequently, connected miscellaneous petition is closed.

04.08.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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To,

1. The Deputy Superintendent of Police,
Uthamapalayam Sub Division,
Rayappanpatti Police Station,
Rayappanpatti, Theni District.
(Crime No.262 of 2014)
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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and
CrI.M.P(MD)No.10205 of 2025

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