



CrI.O.P.(MD)No.13250 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.08.2025

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THE HON'BLE MR.JUSTICE B.PUGALENDHI

CrI.O.P.(MD)No.13250 of 2025

and

CrI.M.P.(MD)No.10488 of 2025

1. Mohammed Bazir
2. Selvam
3. Rani
4. Nazar Khan

... Petitioners

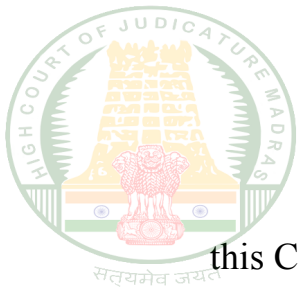
versus

1. The State of Tamil Nadu, rep. through
The Deputy Superintendent of Police,
Periyakulam Sub Division,
Jeyamangalam Police Station,
Theni.

2. The Inspector of Police,
Jeyamangalam Police Station,
Periyakulam Taluk,
Theni District.

... Respondents

Prayer : Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records relating to the impugned order dated 03.07.2025 made in Cr.M.P.No.116 of 2025 in Spl.S.C.No.169 of 2020 on the file of the Special Court under SC/ST (Prevention of Atrocities) Act, Theni, set aside the same within the time frame as may be fixed by



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this Court.

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For Petitioners : Mr.K.Appadurai

For Respondents : Mr.A.S.Abul Kalaam Azad,
Government Advocate (CrI. side)

ORDER

The petitioners are accused Nos.1 to 4 in Spl.S.C.No.169 of 2020 on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Theni. They have moved this petition challenging the order passed by the trial Court in Cr.M.P.No.116 of 2025 in Spl.S.C.No.169 of 2020 dated 03.07.2025.

2. The petitioners are facing trial before the Special Court for Trial of Cases under SC/ST (POA) Act, Theni, for the offences under Sections 341, 294(b), 323, 506(1) IPC r/w. Section 4 of TNPHW Act 2002 and Sections 3(1)(r), 3(1)(s), 3(2)(va), 3(1)(w)(i) of SC/ST (POA) Amendment Act, 2015. In this case, P.W.1 to P.W.3 were examined in chief on 08.01.2025. P.W.4 to P.W.6 were examined in chief on 17.02.2025 and P.W.8 was examined in chief on 01.04.2025 and P.W.9



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was examined in chief on 15.04.2025. However, the petitioners have failed to cross examine the witnesses. Therefore, the petitioners have filed a petition before the trial Court in Cr.M.P.No.116 of 2025 to recall P.W.1 to P.W.6, P.W.8 and P.W.9 for cross examination. The said application was dismissed by the trial Court, by its order dated 03.07.2025. Challenging the same, the petitioners have filed this petition.

3. The learned counsel appearing for the petitioners submit that since the petitioners' Senior Counsel was out of station, they have failed to cross examine the prosecution witnesses. Therefore, the petitioners have filed a petition in Cr.M.P.No.116 of 2025 to recall P.W.1 to P.W.6, P.W.8, P.W.9 for cross examination. However, the trial Court, without considering the reasons, dismissed the said petition. If the petitioners are not provided with an opportunity, then, it would affect the defence of the petitioners.

4. Mr.A.S.Abul Kalaam Azad, learned Government Advocate (CrI. Side) takes notice for the respondent Police and submits that the



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petitioners' counsel was present before the Court on those days of chief examination of witnesses, however, the petitioners have not cross examined the witnesses. Therefore, according to the learned Government Advocate (CrI. Side), the petitioners have deliberately delayed the process of trial by not cross examining the witnesses.

5. This Court considered the rival submissions made.

6. The petitioners are facing trial before the Special Court for Trial of Cases under SC/ST (POA) Act, Theni, for the offences under Sections 341, 294(b), 323, 506(1) IPC r/w. Section 4 of TNPHW Act 2002 and Sections 3(1)(r), 3(1)(s), 3(2)(va), 3(1)(w)(i) of SC/ST (POA) Amendment Act, 2015. The petitioners claim that since their Senior Counsel was out of station, they have not cross examined the above witnesses.

7. Considering the nature of offences and also considering the fact that if the petitioners are not provided with an opportunity to cross examine the witnesses, then, it would certainly affect the defence of the



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petitioners before the trial Court, this Court is inclined to provide one opportunity to the petitioners.

8. Accordingly, this Criminal Original Petition is allowed and the order dated 03.07.2025 made in Cr.M.P.No.116 of 2025 in Spl.S.C.No. 169 of 2020 on the file of the Special Court under SC/ST (Prevention of Atrocities) Act, Theni, is set aside with the following directions:

(i) The petitioners shall file a fresh application under Section 348 of BNSS before the trial Court within a period of **one week from date of receipt of a copy of this order**, along with a demand draft for a sum of Rs.40,000/- (Rupees forty thousand only).

(ii) The trial Court shall pay a sum of Rs.5,000/- (Rupees ten thousand) each to the witnesses, namely, P.W.1 to P.W.6, P.W.8 and P.W.9.

(iii) The trial Court shall find out the convenience of the witnesses and also convey the order passed by this Court imposing a cost of Rs.5,000/- (Rupees five thousand only) and fix a particular date for cross examination of witnesses. The date may also be informed to the petitioners' counsel in advance.



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(iv) The petitioners have to cross examine all the witnesses, who are available for examination on a particular day without fail.

(v) In the event, if the petitioners fail to cross examine the witnesses on the date fixed by the trial Court, then, the trial Court shall proceed with the case further and dispose of the case as expeditiously as possible.

(vi) The petitioners shall not take any further adjournment in this case and co-operate for trial.

Consequently, connected miscellaneous petition is closed.

07.08.2025

Index : Yes / No.

Internet : Yes / No.

NCC : Yes / No.

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To

1. The Special Court under SC/ST (Prevention of Atrocities) Act, Theni.
2. The Deputy Superintendent of Police, Periyakulam Sub Division, Jeyamangalam Police Station, Theni.



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3. The Inspector of Police,
Jeyamangalam Police Station,
Periyakulam Taluk,
Theni District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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