



Crl.O.P.(MD)No.13884 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2025

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD)No.13884 of 2025

Ashok Kumar

... Petitioner

Vs

The State of Tamil Nadu,
Rep. by the Inspector of Police,
Ganesh Nagar Police Station,
Pudukottai.
Crime No.49 of 2023.

...Respondent

Prayer : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to the order, dated 04.06.2025 made in Cr.MP No.65 of 2025 in CC No.49 of 2023, on the file of the Judicial Magistrate, Additional Mahila Court, Pudukkottai and set aside the same.

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



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ORDER

The petitioner/accused in CC No.49 of 2023, which is pending on the file of the Additional Mahila Court, Pudukottai has filed this petition challenging the docket order passed by the learned Magistrate in Cr.MP No.65 of 2025 in CC No.49 of 2023, dated 04.06.2025.

2.The petitioner is facing trial in CC No.49 of 2023, for the offence under Sections 294(b), 448, 323, 427 and 506(i) IPC and Section 4 of Prohibition of Harassment of Women Act, 2002. He has filed a petition, under Section 311 of Cr.P.C in Cr.MP No.65 of 2025, to recall PWs 1 to 4 for the purpose of cross examination and the same was rejected by the learned Judicial Magistrate, considering the manner, in which, the petitioner has failed to cross examine those witnesses, when they were available for examination and also considering the delay of seven months in filing the application. Aggrieved over the same, the petitioner has filed this petition.



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3.The learned counsel appearing for the petitioner submits that PW 1 and PW 2 are the eye witnesses to the occurrence and if they have not been cross examined, it would affect the case of the petitioner. According to the learned counsel, the learned counsel who has appeared for the petitioner before the trial Court was engaged in some other Court during the time, when PWs 1 to 4 were examined in chief. Therefore, he could not cross examine the witnesses at that relevant point of time. Therefore, the learned counsel submits that he must be provided an opportunity to cross examine those witnesses.

4. Mr.A.S.Abul Kalaam Azad, learned Government Advocate (Crl. Side), who takes notice for the respondent submits that PW 1 and PW 2 were examined in chief on 27.09.2024 and the petitioner has not cross examined those witnesses on that day. Thereafter, PW 3 to 5 were examined in chief on 07.02.2025. The petitioner preferred to cross examine PW5 on that day and failed to cross examine PW3 and PW4. Thereafter, the petitioner has moved an application in Cr.MP No.65 of 2025 after a period of seven months, for the purpose of cross examination of those witnesses. The learned



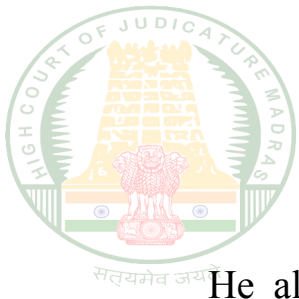
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Government Advocate, by referring to the earlier order of this Court in Crl.OP(MD) No.23497 of 2023 submits that this Court, by its order, dated 03.01.2025, has directed the learned trial Judge to dispose of the case in CC No.49 of 2023, within a period of three months from the date of receipt of a copy of that order. According to him, in view of the petition filed by the petitioner, the trial could not be progressed completed as directed by this Court.

5. This Court considered the rival submissions made and also perused the materials placed on record.

6.This petitioner is facing trial for the offence under Sections 294(b), 448, 323, 427 and 506(i) IPC and Section 4 of Prohibition of Harassment of Women Act, 2002, in CC No.49 of 2023 before the Additional Mahila Court, Pudukottai. The petition filed by the petitioner for cross examination of PWs 1 to 4 was dismissed by the trial Court. He claims that the counsel who has appeared on behalf of the petitioner has held up in other Court and that is the reason for not cross examining those witnesses on the date of their chief examination.



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He also claims that if he has not provided an opportunity to cross examine those witnesses, it would certainly affect his case of defence.

7.In view of the above, this Court is inclined to provide one opportunity to this petitioner to cross examine the witnesses Pws 1 to 4, however, with a condition that the petitioner shall pay a sum of Rs.5,000/- each to the witnesses, for the purpose of cross examination.

8.Accordingly, this Criminal Original Petition is allowed with the following directions:-

- i. The petitioner is directed to pay a sum of Rs.5,000/- each to PWs 1 to 4 and along with acknowledgement for payment made by him, he shall file an application before the Judicial Magistrate, Additional Mahila Court, Pudukkottai.
- ii. The application so filed along with the payment receipt shall be entertained by the learned Judicial Magistrate and the petitioner may be provided with an opportunity to cross



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examine PWs 1 to 4 on a specific date, after ascertaining the convenience of the witnesses.

iii. On the date specified by the learned Judicial Magistrate, the petitioner has to cross examine PWs 1 to 4 without fail.

iv. The trial Court shall endeavour to conclude the proceedings in CC No.49 of 2023 as expeditiously as possible.

21.08.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes
vrn

To

The Inspector of Police,
Ganesh Nagar Police Station,
Pudukottai.



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B.PUGALENDHI, J.

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Order made in
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