

CrI.O.P.(MD)No.13629 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 18.08.2025

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

CrI.O.P.(MD)No.13629 of 2025

and

CrI.M.P.(MD)No.10842 of 2025

1.Vijay
2.Vignesh

... Petitioners

Vs.

The Inspector of Police,
Elumalai Police Station,
Madurai District.
(Crime No.9 of 2019)

... Respondent

Prayer : Criminal Original Petition filed under Section 528 BNSS, to set aside the order dated 12.05.2025 made in Cr.M.P.No.494 of 2025 in S.C.No.470 of 2019 on the file of the learned V Additional District & Sessions Judge, Madurai.

For Petitioners : Mr.J.Senthil Kuaraiah

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



CrI.O.P.(MD)No.13629 of 2025

WEB COPY

ORDER

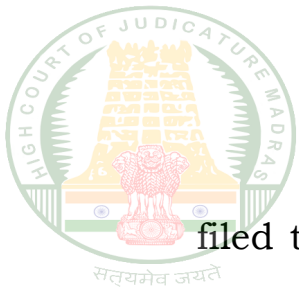
This petition has been filed to set aside the order made in made in Cr.M.P.No.494 of 2025 in S.C.No.470 of 2019 on the file of the learned V Additional District & Sessions Judge, Madurai, dated 12.05.2025. The said petition has been filed by the petitioner to recall P.W.15/Investigating Officer for the purpose of cross examination.

2.The case of the prosecution is that due to previous enmity the accused persons attacked the deceased brutally and murdered him.

3.L.W.6 & L.W.7 were examined by the prosecution to establish last seen theory and the petitioners have not cross examined them. That apart, the petitioners have also not examined P.W.1 to P.W.4.

4.According to the learned counsel for the petitioners, P.W.

1 to P.W.4 were examined in cross and thereafter, they have



WEB COPY

filed the above said petition to recall P.W.15 for the purpose of cross examination. The learned counsel further submits that the petitioners are facing trial for serious offences and in the event, if they are not allowed to cross examine P.W.15, then it would affect their case.

5.The learned Government Advocate(Crl.side) appearing for the respondent submits that P.W.15/Investigating Officer was very much available, when he was examined in chief, on 12.02.2025. However, the petitioners have failed to cross examine him. Further, they have also not cross examined P.W. 1 to P.W.4 at the relevant point of time.

6.Though this Court is not accepting the contention of the petitioners, considering the fact that the petitioners are facing a murder case under Section 302 IPC and also considering that non-examination of Investigating Officer would affect their case, this Court is inclined to allow this petition by imposing some costs. Accordingly, the order impugned in Cr.M.P.No.494 of 2025 in S.C.No.470 of 2019 on the file of the learned V



CrI.O.P.(MD)No.13629 of 2025

Additional District & Sessions Judge, Madurai, dated

12.05.2025 is set aside and this criminal original petition is

allowed on the following terms:-

i)The trial Court shall fix a date for cross examination of P.W.15. If the petitioners fail to cross examine P.W.15 on the fixed day, the trial Court shall proceed further with the trial.

ii)The petitioners shall pay a cost of Rs.10,000/- to P.W. 15/Investigating Officer, when he appears for cross examination.

Consequently, connected miscellaneous petition is closed.

18.08.2025

NCC : Yes/No
Index : Yes/No
Internet:Yes
gns



CrI.O.P.(MD)No.13629 of 2025

WEB COPY
To

1.The V Additional District & Sessions Judge,
Madurai.

2.The Inspector of Police,
Elumalai Police Station,
Madurai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.O.P.(MD)No.13629 of 2025

B.PUGALENDHI,J

gns

CrI.O.P.(MD)No.13629 of 2025

18.08.2025