

Crl.O.P.(MD)No.13527 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.08.2025

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

Crl.O.P(MD)No.13527 of 2025

and

Crl.M.P(MD)No.10772 of 2025

1.Rajesh

2.Raja

.. Petitioners

versus

State of Tamil Nadu rep. by
The Inspector of Police,
Nachiyarkovil Police Station,
Thanjavur District.
(in Crime No.105/2021)

...Respondent

Prayer : Criminal Original Petition filed under Section 528 of BNSS, to set aside the order dated 30.06.2025 made in Crl.M.P.No.5 of 2025 in S.C.No.119 of 2021 on the file of the Additional District and Sessions Judge (Fast Track Court), Kumbakonam.

For Petitioner : Mr.M.Karunanithi

For R1 : Mr.A.S.Abul Kalaam Azad
Government Advocate (Crl. Side)



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ORDER

The petitioners, who are accused Nos.1 and 2 in S.C. No.119 of 2021 pending before the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam, have filed the present petition challenging the order dated 30.06.2025 passed in Crl.M.P. No.5 of 2025 in S.C. No.119 of 2021. The petitioners are facing trial for offences under Sections 294(b), 341, 427, 506(ii), 302, and 34 IPC. The case was committed to the Court of the Additional District and Sessions Judge in 2021, and trial commenced in 2022. The prosecution has examined 36 witnesses.

2. It is seen that the petitioners failed to cross-examine PW.24 and PW.29 when they were available for such purpose on 16.12.2024. Seeking to cross-examine them, the petitioners filed Crl.M.P. No.5 of 2025 to recall PW.24 and PW.29. The trial court, however, dismissed the application, noting the petitioners' repeated failure to cross-examine the said witnesses despite their availability on 04.09.2023, 20.11.2023, 16.12.2024, 21.10.2024, and 04.02.2025.

3. The learned counsel for the petitioners submits that PW.24 is the Sub-Inspector of Police who registered the First Information Report.

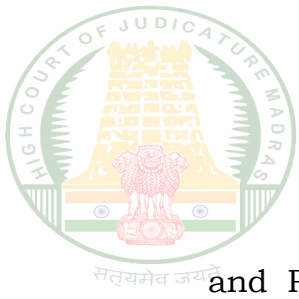


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According to him, PW.24 is a crucial witness, as the petitioners had also sustained injuries and lodged a complaint before him, which, however, was not registered. PW.29 is the Investigating Officer and is also a crucial witness who requires to be cross-examined. The learned counsel further submits that he is practicing at Chennai and, due to certain arguments before the Court at Chennai, he could not be present when the witnesses were available for cross-examination. On 04.02.2025, when he went to the trial court, the witnesses, who had been present earlier, had already left as they had other engagements. It is further contended that non-cross-examination of these witnesses would cause serious prejudice to the petitioners/accused.

4. The learned Government Advocate (Criminal Side) submits that PW.24 was examined in chief on 04.09.2023 and PW.29 was examined in chief on 20.11.2023. Though both witnesses were present on those respective dates, the petitioners failed to cross-examine them. Thereafter, PW.24 and PW.29 were recalled on 22.04.2024, but the petitioners once again failed to cross-examine them. PW.24 was recalled yet again on 21.10.2024 and was available, but he was not cross-examined. The petition filed on 16.12.2024 to recall PW.24, PW.29, and PW.30 was allowed, and the witnesses were present on 04.02.2025 for cross-examination. However, the defence counsel did not cross-examine PW.24



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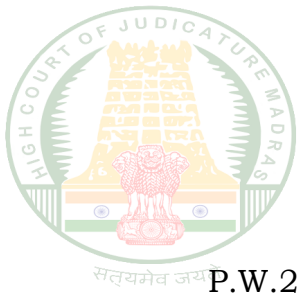
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and PW.29. PW.30 was subsequently cross-examined on 02.04.2025. Thereafter, on 07.04.2025, the petitioners filed yet another application, which is the fourth petition, to recall PW.24, PW.29, and PW.30, which came to be dismissed by the trial court.

5. According to the learned Government Advocate, the witnesses P.W.24, who is a Sub Inspector of Police and P.W.29, who is the Inspector of Police, are very much available for cross examination on 04.09.2023, 20.11.2023, 22.04.2024, 21.10.2024, 16.12.2024 and 04.02.2025. However, the petitioners have failed to cross examine those witnesses. Only on this ground, the trial court rejected the petitioners' application.

6. This court considered the rival submissions made.

7. Considering the manner in which the official witnesses were not cross-examined by the petitioners on 04.09.2023, 20.11.2023, 22.04.2024, 21.10.2024, 16.12.2024, and 04.02.2025, this Court is not inclined to entertain the present petition. However, the learned counsel for the petitioners has submitted that if P.W.24 and P.W.29 are not cross-examined, it would affect the case of the petitioners. The petitioners are facing trial for the major offence under Section 302 IPC.



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P.W.24 is the Sub-Inspector of Police who registered the FIR, and P.W.29 is the Investigating Officer who conducted the investigation. The learned counsel for the petitioners, acknowledging the inconvenience caused to the witnesses due to their repeated appearances before the trial court, has expressed willingness to pay compensation and has requested that a cost of Rs.20,000/- each be fixed for the said witnesses.

8. Considering the submissions, the petitioners are directed to deposit a sum of Rs.40,000/- to the credit of the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam, and thereafter file an application to recall P.W.24 and P.W.29. On such deposit being made, the trial Judge shall entertain the application, consult with P.W.24 and P.W.29 regarding a convenient date, and on that date, the petitioners shall cross-examine the said witnesses without fail. Out of the deposited amount, the trial Judge is directed to pay a sum of Rs.10,000/- each to P.W.24 and P.W.29 as compensation for the harassment suffered by them in attending the court on multiple occasions for the purpose of cross-examination. The balance sum of Rs. 20,000/- shall be utilised by the trial court for welfare measures of that particular court.



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9. This criminal original petition is disposed of accordingly.

Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes/No
Internet:Yes
skn

To

1.The Inspector of Police,
Nachiyarkovil Police Station,
Thanjavur District.

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



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B.PUGALENDHI, J.

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