

Crl.O.P.(MD)No.14073 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.08.2025

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

Crl.O.P.(MD)No.14073 of 2025

and

Crl.M.P.(MD)No.11305 of 2025

Vijay @ Vijayan

... Petitioner

Vs.

1.The Deputy Superintendent of Police,
Uthamapalayam Sub Division,
Cumbum North Police Station,
Cumbum, Theni District.
(In Crime No.619/2016)

2.A.Maheshwaran

... Respondents

Prayer : Criminal Original Petition filed under Section 528 BNSS, to call for the records pertaining to the impugned order made in Crl.M.P.No.138/2025 in Spl.S.C.No.70/2020 on the file of the Special Court for Trial Cases under SC/ST (POA)Act, Theni and set aside the same as illegal and consequently, direct the trial Court to recall the witness for cross examination the witnesses P.W.1 to P.W.10 forthwith.

For Petitioner

: Mr.K.Prabakaran

For R1

: Mr.A.S.Abul Kalaam Azad,
Government Advocate(Crl.side)



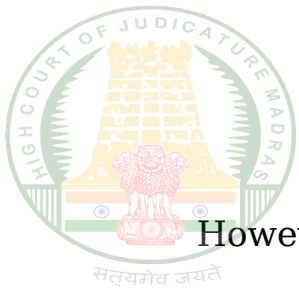
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ORDER

The petitioner, who is accused in Spl.S.C.No.70/2020 on the file of the Special Court for Trial Cases under SC/ST (POA)Act, Theni, has filed an application in Crl.M.P.No.138 of 2025 under Section 348 BNSS to recall P.W.1 to P.W.10 for the purpose of cross examination and the same was dismissed by an order dated 16.07.2025. Against which, the petitioner has filed the present petition.

2.The learned counsel appearing for the petitioner submits that the petitioner is facing trial for the offence under Sections 147, 294(b), 323, 506(i) IPC r/w Sections 3(i)(r)(s), 3(2)(va) of SC/ST (POA) Amendment Act, 2015. The petitioner claims that his earlier counsel failed to cross examine the witnesses and therefore, he changed his counsel and thereafter, he filed the above said application. Without considering the same, the trial Court rejected the claim of the petitioner.

3.The learned Government Advocate(Crl.side) appearing for the first respondent submits that the averment made by the petitioner is wrong and he has not cross examined P.W.1 to P.W.3.

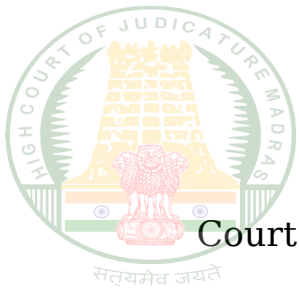


However, he has cross examined other witnesses. The learned Government Advocate(Crl.side) has also produce evidence copy and submits that the other witnesses P.W.4 to P.W.10 were already cross examined by the petitioner.

4.This Court has considered the submissions made on either side and perused the available records.

5.It appears that the trial has commenced on 10.01.2023. P.W.1 and P.W.2 were examined in chief on 10.01.2023. P.W.3 was examined in chief on 24.01.2023. P.W.4 was examined in chief on 22.08.2024. As pointed out by the learned Government Advocate(Crl.side), the petitioner has cross examined P.W.4 and subsequent witnesses. However, he has not cross examined P.W.1 to P.W.3.

6.Considering the manner in which the application has been filed for the purpose of cross examination of the witnesses, who were examined in the year 2023 and also considering the fact that the petitioner is facing trial for the offence under the provisions of SC/ ST Act and if the petitioner is not permitted to cross examine P.W.1 to P.W.3, he may lose his case before the trial Court, this



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Court is inclined to allow this petition with a cost of Rs.5,000/- each to P.W.1 to P.W.3.

7. Accordingly, this criminal original petition is allowed and the impugned order in Crl.M.P.No.138 of 2025 dated 16.07.2025 is hereby set aside. The petitioner is permitted to file a petition under Section 348 BNSS to recall P.W.1 to P.W.3 along with cost of Rs.15,000/-(Rupees Fifteen Thousand only) payable to the P.W.1 to P.W.3. In the event, if any such application is filed, the trial Court shall entertain the same and shall fix a specific date to cross examine P.W.1 to P.W.3. If the petitioner fails to cross examine P.W.1 to P.W.3 on that date, the trial Court shall proceed with the trial. Consequently, connected miscellaneous petition is closed.

25.08.2025

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



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- To
- 1.The Special Court for Trial Cases under SC/ST (POA)Act,
Theni.
 - 2.The Deputy Superintendent of Police,
Uthamapalayam Sub Division,
Cumbum North Police Station,
Cumbum, Theni District.
 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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