



Crl.O.P.(MD)No.15577 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 18.09.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.15577 of 2025

Thiyagarajan

... Petitioner

Vs.

The State of Tamilnadu,
Represented by the Inspector of Police,
NIB-CID Police Station,
Theni.
Crime No.115 of 2007.

...Respondent

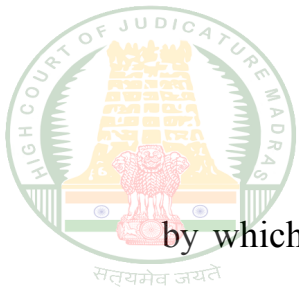
Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the entire records pertaining to the order passed by the District and Sessions court for communal Clash Cases Court, Madurai in Cr.M.P.No. 14/2025 in C.C.No.44/2008 dated 07.08.2025 and set aside the same.

For Petitioner : Mr.Pitchai Muthu.M

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

The petitioner has filed this petition seeking to set aside the impugned order, dated 07.08.2025 in Cr.M.P.No.14 of 2025 in C.C.No.44 of 2008 passed by the District and Sessions court for communal Clash Cases Court, Madurai,



Crl.O.P.(MD)No.15577 of 2025

by which, the petitioner's application filed for recalling of an official witness PW2 was dismissed on the ground that the same was filed only to delay the proceedings.

2. The petitioner is an accused facing trial for the offence under Section 8(c) r/w. 22(C) of the NDPS Act. It is the case of the petitioner that when PW2 was examined in chief, the petitioner could not cross examine PW2 for the reasons beyond his control; that the prosecution took six years to examine six witnesses; that the Investigating Officer was examined only in December 2024; that the delay in trial proceedings is not due to the petitioner; and that if PW2 is not further cross examined on certain vital aspects, his valuable right of fair trial would be denied.

3. The learned Additional Public Prosecutor, on instructions, would submit that PW2 was already examined in chief and was also cross examined; and that the present petition has been filed only to delay the trial proceedings.

4. It is seen from the records that only six witnesses were cited in this case, which has been pending from the year 2008. Admittedly, the Investigating Officer was examined as PW4 on 04.12.2024. Therefore, this Court is of view



Crl.O.P.(MD)No.15577 of 2025

that the delay in the trial cannot be attributed to the petitioner alone. The case is now posted for the examination of defence witnesses. This Court is of the view that one more opportunity can be given to the petitioner to further cross examine PW2 to secure the ends of justice. Hence, this Court is inclined to issue the following directions:

(a) the petitioner shall cross-examine P.W.2 on the date to be fixed by the learned Sessions Judge, on payment of cost of Rs.5,000/- to the said witness on or before the date of such examination.

(b) the petitioner shall pay a sum of Rs.2,500/- to the District Legal Services Authority, Madurai, within a period of one week from the date of receipt of copy of this order.

(c) on failure to comply with any of the above directions, the order passed by this Court shall stand vacated without reference to this Court.

5. Accordingly, the impugned order is set aside and the petition is disposed of with the above directions.

18.09.2025

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

Indu



WEB COPY
To



Crl.O.P.(MD)No.15577 of 2025

SUNDER MOHAN, J.

Indu

- 1.The Inspector of Police,
NIB-CID Police Station,
Theni.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P(MD).No.15577 of 2025

18.09.2025