



CRL OP(MD). No.17069 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 15/10/2025

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CRL OP(MD). No.17069 of 2025
and
CrI.M.P(MD) No.13918 of 2025

1. Selvi

2. Sekar

... Petitioners

Vs

1. The Deputy Superintendent of Police,
Theni Sub Division,
Palanichettipatty Police Station,
Theni District.
In Crime No. 17 of 2022.

2. The Inspector of Police,,
Palanichettipatty Police Station,
Theni District.

3. Chinnaraj,
S/o. Pethlu

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the impugned order in Cr.M.P.No.190/2025 dated 10.09.2025 passed by the Special Court for Trial of cases under SC/ST(POA) Act, Theni and permit the petitioner to cross examine the prosecution witness PW-1 to PW-4 and PW-6 and allow this petition.



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For Petitioner : Mr.C.Susikumar

For R1 and R2 : Mr.R.M.Anbunithi,
Additional Public Prosecutor

ORDER

The petitioner seeks to set aside the impugned order in Cr.M.P.No. 190/2025, dated 10.09.2025, passed by the Special Court for Trial of cases under SC/ST(POA) Act, Theni, rejecting the petitioner's request for recall and cross examination of P.W1 to P.W4 and PW6.

2.The petitioner is facing trial for the offences under the SC/ST Act in Spl.S.C.No.19 of 2022. P.W1 to P.W4 and PW6 were examined in chief in March, April, June and July of 2025 respectively. The petitioner had not cross-examined those witnesses and sought for recall of those witnesses. The learned Sessions Judge dismissed the said petition stating that the witnesses are aged persons and that the investigating officer is now working in Tenkasi and it would cause hardship to those witnesses. Hence, the petitioner has filed this petition challenging the said order.



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3.The learned counsel for the petitioner would submit that none of the witnesses could be cross-examined as the previous counsel had not cross-examined them and that if the right to cross examination is denied, the petitioner would be put to irreparable loss and hardship and denied a fair trial.

4.The learned Additional Public Prosecutor appearing for the respondent police would submit that the order of the learned Sessions Judge cannot be faulted, as inspite of an opportunity to cross examine, the petitioners had not chosen to cross-examine and therefore, no indulgence may be shown. He would further submit that the case is now posted on 06.11.2025 for the defence witnesses.

5.Though the petitioner had the opportunity to cross examine the witnesses, they had not chosen to cross examine the witnesses. Therefore, the impugned order passed by the learned Sessions Judge cannot be said to be unjustified. However, this Court is of the view that in order to ensure a fair trial, the petitioners can be granted one more opportunity to cross-examine the witnesses. Accordingly, the impugned order is set aside with the following directions:-



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(i) The petitioners shall cross-examine P.W1 to P.W4 and P.W6 on the same day fixed by the learned Sessions Judge, on payment of Rs.5000/- to each of the witnesses on their appearance. The petitioners shall further deposit a sum of Rs.5,000/- to the District Legal Service Authority, Theni.

(ii) If the petitioner fails to comply with the above direction, the order passed by this Court shall stand vacated without further reference to this Court.

6. With the above directions, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

15.10.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To
1. The Deputy Superintendent of Police,
Theni Sub Division,
Palanichettipatty Police Station,
Theni District.

4/6



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2.The Inspector of Police,
Palanichettipatty Police Station,
Theni District.

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



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SUNDER MOHAN,J

CP

ORDER
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Date : 15/10/2025