



Crl.O.P.(MD)No.17254 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.17254 of 2025

Muthukumar

... Petitioner/Petitioner/Accused No.1

Vs.

State of Tamil Nadu
Rep. By the Inspector of Police,
Odaipatti Police Station,
Theni District.
(Crime No.106/2013)

... Respondent/Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 528 of BNSS, 2023, to allow this petition and set aside the order passed by the learned Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni in Cr.M.P.No. 39 of 2025 in S.C.No.88 of 2019 dated on 19.09.2025 and Recall PWs 13, 15 and 18 for the purpose of Cross Examination.

For Petitioner : Mr.S.G.L.Rishwanth

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



Crl.O.P.(MD)No.17254 of 2025

WEB COPY

ORDER

The petitioner seeks to set aside the impugned order dated 19.09.2025 in Crl.M.P.No.39 of 2025 in S.C.No.88 of 2019 passed by the learned Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni, dismissing the petitioner's application to recall and cross-examine P.W.13, P.W.15 and P.W.18.

2. The petitioner is facing trial for the major offence under Section 302 of IPC in S.C.No.88 of 2019. The petitioner sought for recall of the witnesses P.W.13, P.W.15 and P.W.18. The learned Sessions Judge dismissed the said petition on the ground that the earlier applications filed by the petitioner for recall of P.W.13 and P.W.15 in Crl.M.P.Nos.653 and 660 of 2024 were dismissed and the petitioner, without challenging the same, had filed the second application, which is not maintainable; that P.W.18 is working as District Superintendent of Police in Thiruvallur District and his chief examination was recorded through video conference; and that if he is recalled for cross-examination, it would cause great loss of time and hardship to him.

3. The learned counsel for the petitioner would submit that all the three witnesses are vital; that if the petitioner is not allowed to cross-examine the



Crl.O.P.(MD)No.17254 of 2025

witnesses, his valuable right to fair trial would be denied and sought for setting aside of the order passed by the learned Sessions Judge.

4. The learned Additional Public Prosecutor per contra submitted that since the earlier petitions for recall of the witnesses were dismissed, the learned Sessions Judge had rightly dismissed the petition; that the case is now posted for proceedings under Section 313 Cr.P.C; and that the present recall petition is filed only to delay the proceedings.

5. Admittedly, the petitioner had earlier filed Crl.M.P.Nos.653 and 660 of 2024 for recall of the witnesses, P.W.13 and P.W.15 respectively and the same were dismissed. The petitioner has not chosen to challenge the said orders. Hence, the second petition for recall of P.W.13 and P.W.15 was rightly not entertained by the learned Sessions Judge. However, it is seen that P.W.18 was examined in chief on 08.07.2025 and the petitioner has not cross-examined the said witness. The petitioner is entitled to fair trial. Hence, this Court is of the view that one more opportunity can be given to the petitioner to cross-examine P.W.18. Accordingly, the impugned order in Crl.M.P.No.39 of 2025 dated 19.09.2025, insofar as it rejects the petitioner's request for recall of P.W.18 alone is set aside and this Court issues the following directions:



Crl.O.P.(MD)No.17254 of 2025

(i) The petitioner shall cross-examine P.W.18 on the same day fixed by the Sessions Court;

(ii) The petitioner may be permitted to cross-examine P.W.18 either in person or through video conference as directed by the Sessions Court.

6. With the above observations, this Criminal Original Petition stands disposed of.

15.10.2025

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

To

- 1.The Sessions Court,
Mahalir Neethimandram,
Fast Track Mahila Court, Theni.
- 2.The Inspector of Police,
Odaipatti Police Station,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.17254 of 2025

SUNDER MOHAN, J.

Lm

Crl.O.P(MD).No.17254 of 2025

15.10.2025