



Crl.O.P.(MD)No.17574 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.17574 of 2025

and

Crl.M.P(MD)No.14315 of 2025

- 1.Rajeshkanna
- 2.Thilavathi
- 3.Varija
- 4.Malmurugan

... Petitioners/Accused 1, 2, 3 & 5

Vs.

State of Tamil Nadu,
Represented by,
The Inspector of Police,
The All Women Police Station,
Pudukottai.
(Crime No.20 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 528 of BNSS, 2023, to set aside the order made in Crl.M.P.No.387 of 2024 in C.C.No.31 of 2023 on the file of the Additional Mahila Court (Magistrate Level), Pudukkottai.

For Petitioners : Mr.N.Ananda Kumar

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



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ORDER

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The petitioners seek to set aside the order passed by the learned Additional Mahila Judge (Magistrate Level), Pudukkottai in Crl.M.P.No.387 of 2024 in C.C.No.31 of 2023, dismissing the petitioners' application filed under Section 311 of Cr.P.C., for recall of witnesses, P.W.1 to P.W.8 for cross-examination.

2. The petitioners, who are facing trial in C.C.No.31 of 2023 for the offences under Section 498(A), 323, 294(b) and 506(i) of IPC, had sought for recall of the witnesses on the ground that none of the witnesses could be cross-examined and a new counsel has been engaged. The Trial Court found that the reason for recall petition is not convincing; and that since the petitioners had not cross-examined any of the witnesses, the request of the petitioners cannot be considered and rejected the petition.

3. The learned counsel for the petitioners would submit that since none of the witnesses have been cross-examined, if the petitioners are not allowed to cross-examine the witnesses, their valuable right to fair trial would be denied.



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4. The learned Additional Public Prosecutor per contra submitted that the impugned order does not suffer from any infirmity; and that the petitioners had not availed the opportunity of cross-examination and sought for dismissal of the petition.

5. The case arises out of a matrimonial dispute. The reason given by the petitioners for cross-examining the witnesses is not convincing and therefore, the learned Magistrate cannot be said to be unjustified in dismissing the recall petition. However, it is seen that none of the witnesses have been cross-examined and the prosecution has not closed its evidence so far. The learned counsel for the petitioners would also submit that they would restrict the cross-examination to P.W.1 to P.W.4. Hence, this Court is of the view that one more opportunity can be given to the petitioners to cross-examine the witnesses, P.W.1 to P.W.4. Accordingly, the impugned order passed in Crl.M.P.No.387 of 2024, insofar as it rejects the petitioners' request for recall of P.W.1 to P.W.4 alone is set aside and this Court issues the following directions:

(i) The petitioners shall cross-examine P.W.1 to P.W.4 on the same day fixed by the learned Magistrate on payment of cost of Rs.5000/- (Rupees Five Thousand only) to each of the witnesses besides paying a sum of Rs.3000/-



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(Rupees Three Thousand only) to the District Legal Services Authority,
Pudukkottai.

(ii) If the petitioners fail to comply with the above condition, the order passed by this Court would lose its efficacy.

6. With the above observations, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

15.10.2025

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

To

1.The Additional Mahila Court (Magistrate Level),
Pudukkottai.

2.The Inspector of Police,
The All Women Police Station,
Pudukkottai.

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



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SUNDER MOHAN, J.

Lm

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