



Crl.O.P.(MD)No.19019 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.19019 of 2025

Kuvai @ Kubendhiran

... Petitioner/Accused

Vs.

1.State represented through,
The Deputy Superintendent of Police,
Theni Sub Division,
Palanicettipatti Police Station.
(Crime No.1595/2020)

... 1st Respondent/Complainant

2.Eswaran

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records and set aside the impugned order dated 06.05.2025 in Cr.M.P.No.92 of 2025 in Spl.S.C.No.1 of 2021 on the file of the Special Court for Trial of cases SC/ST (POA) Act, Theni.

For Petitioner : Mr.P.M.Vishnu Varthanan

For R-1 : Mr.R.M.Anbunithi
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition is filed to set aside the impugned order passed by the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Theni in Cr.M.P.No.92 of 2025 dated 06.05.2025, dismissing the petitioner's application for recall of P.W.1 to P.W.6 for cross-examination.

2. The petitioner is facing prosecution in Spl.S.C.No.1 of 2021 for the offences under Section 294(b), 324, 506(2) of IPC and Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (POA) Amendment Act, 2015. He filed a petition for recall of P.W.1 to P.W.6 for cross-examination, who were examined in chief on 10.01.2025, 29.01.2025 and 20.02.2025. The said petition was dismissed by the Trial Court on the ground that though the witnesses were examined in chief and sufficient opportunity was given to the petitioner to cross-examine the witnesses, he had not chosen to avail the opportunity and the recall of the witnesses would cause undue hardship to them; and that since the trial under the SC/ST (POA) Act has to be concluded expeditiously, the witnesses cannot be recalled.



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3. The learned counsel for the petitioner would submit the petitioner could not cross-examine the witnesses for want of sufficient details; that he would abide by any stringent condition that may be imposed by this Court for recall of the witnesses; and that he would restrict his prayer to recall P.W.1 to P.W.4.

4. The learned Additional Public Prosecutor would submit that the case is now posted for production of defence witnesses and that the petition has been filed only to delay the progress of the trial.

5. It is seen that the petitioner has no justifiable reason for not cross-examining the witnesses. At the same time, this Court is of the view that one more opportunity can be granted to the petitioner to recall P.W.1 to P.W.4 for cross-examination on certain conditions. Hence, the impugned order is set aside only insofar as it rejects the petitioner's request for recall of P.W.1 to P.W.4 and the following directions are issued:

(i) The petitioner shall cross-examine P.W.1 to P.W.4 on the same day fixed by the learned Judge on payment of cost of Rs.5000/- (Rupees Five Thousand only) to each of the witnesses besides paying a sum of Rs.5000/- (Rupees Five Thousand only) to the District Legal Services Authority, Theni.



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

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

05.11.2025

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

To

1.The Special Court for Trial of cases SC/ST (POA) Act,
Theni.

2.The Deputy Superintendent of Police,
Theni Sub Division,
Palanicettipatti Police Station.

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



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SUNDER MOHAN, J.

Lm

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