



Crl.O.P.(MD) Nos.18810 & 18831 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2025

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THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) Nos.18810 & 18831 of 2025

Muthukumar

... Petitioner in both
Crl.O.Ps.

Vs.

State of Tamil Nadu rep. by
The Inspector of Police,
Odaipatti Police Station,
Theni District.
In Crime No.106 of 2013

... Respondent in both
Crl.O.Ps.

Prayer in Crl.O.P.(MD) No.18810 of 2025 : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to set aside the order passed by the learned Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni, in Cr.M.P.No.653 of 2024 in S.C.No.88 of 2019 dated 21.01.2025 and recall P.W.13 for the purpose of cross-examination.

Prayer in Crl.O.P.(MD) No.18831 of 2025 : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to set aside the order passed by the learned Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni, in Cr.M.P.No.660 of



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2024 in S.C.No.88 of 2019 dated 04.02.2025 and recall P.W.15 for the purpose of cross-examination.

For Petitioner
in both Crl.O.Ps. : Mr.S.G.L.Rishwanth

For Respondent
in both Crl.O.Ps. : Mr.R.M.Anbunithi
Additional Public Prosecutor

COMMON ORDER

These Criminal Original Petitions have been filed to set aside the orders dated 21.01.2025 and 04.02.2025 passed by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Theni, in Cr.M.P.Nos.653 and 660 of 2024 in S.C.No.88 of 2019, respectively.

2. By the impugned orders dated 21.01.2025 and 04.02.2025, the learned Sessions Judge dismissed Cr.M.P.Nos.653 and 660 of 2024 in S.C.No.88 of 2019 filed by the petitioner to recall P.W.13, who is the Doctor and had examined the deceased, and P.W.15, who is the Sub-Inspector of Police and had registered the FIR.

3. The petitioner is facing trial in S.C.No.88 of 2019 for the offences punishable under Sections 120B, 302, and 201 of the Indian



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Penal Code, 1860. P.W.13 and P.W.15 were examined in chief on 15.10.2024 and 09.12.2024 respectively. For want of time, both the witnesses could not be cross-examined. Hence, Cr.M.P.Nos.653 and 660 of 2024 have been filed by the petitioner seeking recall of P.W.13 and P.W.15 for cross-examination. The learned Sessions Judge dismissed both the petitions on the ground that no proper reasons had been furnished by the petitioner for recall of the witnesses.

4. The learned counsel for the petitioner would submit that P.W.13 and P.W.15 are important witnesses, and that if they are not cross-examined, the petitioner's right to defend the case would be defeated.

5. The learned Additional Public Prosecutor for the respondent would submit that P.W.13 and P.W.15 were examined in chief on 15.10.2024 and 09.12.2024 respectively; that subsequent to the impugned orders, the petitioner once again filed another petition in Cr.M.P.No.39 of 2025 seeking recall of P.W.13, P.W.15, and P.W.18, which was also dismissed by the learned Sessions Judge; that against the said order, the petitioner filed CrI.O.P.(MD) No.17254 of 2025 before this Court, and this Court had partly confirmed the order passed by the learned Sessions



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Judge insofar as P.W.13 and P.W.15 are concerned; and therefore, these Criminal Original Petitions may not be allowed for recall of the very same witnesses.

6. It is seen that the learned Sessions Judge had passed the impugned orders in January 2025 and February 2025 respectively. Thereafter, the petitioner filed another petition in Cr.M.P.No.39 of 2025 seeking recall of the very same witnesses along with P.W.18. The learned Sessions Judge dismissed the said petition *vide* order dated 19.09.2025. This Court, in Crl.O.P.(MD) No.17254 of 2025 filed by the petitioner challenging the said order of the learned Sessions Judge dated 19.09.2025 in Cr.M.P.No.39 of 2025, had set aside the said order dated 19.09.2025 insofar as it related to P.W.18 and had confirmed the same insofar as P.W. 13 and P.W.15 on the ground that the application for recall of these witnesses would not be maintainable. The petitioner has now challenged the initial orders dismissing the petitions filed for recall of these witnesses.

7. The case is now posted for questioning under Section 313 of Cr.P.C. The petitioner has not made out a case for cross-examination of



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P.W.15, who is the Sub-Inspector of Police. However, since P.W.13, who is the Doctor, had certified that there were fractures, certain aspects have to be elicited from the Doctor. Since this Court had already permitted the cross-examination of P.W.18, this Court is of the view that the petitioner can be permitted to cross-examine P.W.13 on the same day fixed by the learned Sessions Judge, on payment of a sum of Rs.7,500/- to P.W.13, besides depositing a sum of Rs.5,000/- to the Legal Services Authority, Theni. If the petitioner fails to comply with the above directions, this order shall stand vacated without further reference to this Court.

8. In the result, the impugned order dated 21.01.2025 passed by the learned Sessions Judge in Cr.M.P.No.653 of 2024 is set aside, and CrI.O.P.(MD) No.18810 of 2025 is allowed, and that the impugned order dated 04.02.2025 passed by the learned Sessions Judge in Cr.M.P.No.660 of 2024 is confirmed, and CrI.O.P.(MD) No.18831 of 2025 is dismissed.

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Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order



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- 1.The Sessions Judge,
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.



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SUNDER MOHAN, J.

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