



Crl.O.P.(MD)No.20388 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.20388 of 2025

and

Crl.M.P(MD) No.17258 of 2025

Vijayan @ Vijay

... Petitioner

Vs.

The State of Tamilnadu,
represented by the Inspector of Police,
Anna Nagar Police Station,
Madurai.
(Crime No.1528 of 2021).

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in Cr.M.P.No.2432 of 2025 in S.C.No.390 of 2022 on the file of learned Additional Chief Judicial Magistrate, Madurai dated 07.10.2025 and set aside the same.

For Petitioner : Mr.R.Mariappan

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



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ORDER

The petitioner seeks to set aside the order passed in Cr.M.P.No.2432 of 2025 in S.C.No.390 of 2022 on the file of learned Additional Chief Judicial Magistrate, Madurai, dated 07.10.2025.

2. The petitioner is facing prosecution for the major offence under Section 307 of IPC. The witnesses, P.W.1 to P.W.4 were examined in chief on 25.06.2025. The petitioner had not cross examined those witnesses on the same day. The petitioner had filed an application on 29.07.2025 to recall of those witnesses. The said petition was dismissed by the learned Judge, stating that the petitioner ought to have cross examined those witnesses on the same day and the petitioner has filed the recall petition only to delay the proceedings.

3. The learned counsel for the petitioner would submit that immediately after the examination of the witnesses, the petitioner had sought for recall of those witnesses; and that unless the petitioner is allowed to recall and cross examine the witnesses, his right for fair trial would be denied.



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4. The learned Additional Public Prosecutor, per contra, would submit that the petitioner has deliberately not cross examined the witnesses; that the witnesses cannot be called repeatedly; and that therefore, the learned Judge was justified in dismissing the said petition. He would further submit that the case is now posted for the examination of other witnesses.

5. Admittedly, the prosecution had not closed its evidence and it cannot be said that the said petition has been filed only to delay the proceedings. The petitioner has a right of fair trial. Therefore, this Court is of the view that one more opportunity shall can be given to the petitioner to cross examine the witnesses. Hence, the impugned order passed in Crl.M.P.No.2432 of 2025 in S.C.No.390 of 2022 on the file of the learned Additional Chief Judicial Magistrate, Madurai, vide order dated 07.10.2025, is set aside on the following conditions:

(i) The petitioner shall cross examine the four witnesses on the same day fixed by the concerned trial Court on payment of cost of Rs.3,000/- each to the witnesses and he shall pay a further sum of Rs.3,000/- to the District Legal Services Authority, Madurai.



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(ii) If the petitioner fails to comply with any of the above conditions, the order passed by this Court will stand vacated without further reference to this Court.

6. With the above directions, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

19.11.2025

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

Indu

To

- 1.The Additional Chief Judicial Magistrate Court,
Madurai.
- 2.The Inspector of Police,
Anna Nagar Police Station,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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SUNDER MOHAN, J.

Indu

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