



CRL RC(MD). No.1550 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 09.12.2025

CORAM

**THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

**Crl.R.C.(MD). No.1550 of 2025**

**and**

**Crl.M.P.(MD)No.19403 of 2025**

K.Swamydhass

... Petitioner

Vs.

State of Tamilnadu Rep by  
Inspector of Police,  
AWPS-Nagercoil,  
Kanyakumari District.  
Crime No. 37 of 2011.

... Respondent

PRAYER :- Criminal Revision Petition is filed under Sections 438 and 442 of BNSS, 2023, to call for the records and set aside the order dated 22.10.2025 passed in C.C. No. 194 of 2018 on the file of the Judicial Magistrate, Additional Mahila Court, Nagercoil.

For Petitioner : Mr.R. Murugan,

For Respondent : Mr.A.Thiruvadi Kumar,  
Additional Public Prosecutor

**ORDER**

Heard Mr.R.Murugan, learned Counsel for petitioner and Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor, for Respondent.



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2. The present Criminal Revision Petition is filed challenging the order dated 22.10.2025 made in C.C.No.194 of 2018 pending on the file of the Judicial Magistrate, Additional Mahila Court, Nagercoil, whereby an charge under Section 493 of I.P.C was added.

3. It is submitted by learned counsel for petitioner that the respondent /complainant registered a case in Crime No.37 of 2011 for the alleged offences under Sections 498(A), 420, 494, 109 and 120(B) of I.P.C against the petitioner and three others. The respondent filed a final report in C.C.No.194 of 2018 which is pending on the file of the Judicial Magistrate, Additional Mahila Court, Nagercoil. It is submitted that the complaint filed by the defacto complainant under Section 156(3) Cr.P.C which culminated into an F.I.R in Crime No.37 of 2011 dated 04.11.2011. It is submitted that vide impugned order, apart from the alleged offences under Sections 498(A), 420, 494, 109, 120(B) of I.P.C, offence under Section 493 of I.P.C, was added which according to the petitioner, is impermissible.



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4. To the contrary, learned Additional Public Prosecutor would place reliance on Sections 216 and 217 Cr.P.C and submit that it is open to the Court to alter or add to the charge at any time before the judgment is pronounced. He would also submit that whenever a charge is altered or added after the commencement of the trial, the Prosecutor and accused are allowed to recall or re-examine to alter or add any witnesses examined, unless the Court may for reason to be recorded in writing, consider that the above exercise of recalling or re-examining the witness is for the purpose of vexation or delay or defecting ends of justice. It is also open to call any further witness whom the Court may think to be material.

5. To appreciate the above submission, it may be relevant to refer to Sections 216 and 217 Cr.P.C:

*“216. Court may alter charge.—(1) Any Court may alter or add to any charge at any time before judgment is pronounced.*

*(2) Every such alteration or addition shall be read and explained to the accused.*



*(3) If the alteration or addition to a charge is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such alteration or addition has been made, proceed with the trial as if the altered or added charge had been the original charge.*

*(4) If the alteration or addition is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.*

*(5) If the offence stated in the altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered or added charge is founded.*

*217. Recall of witnesses when charge altered.— Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed—*

*(a) to recall or re-summon, and examine with reference to such alteration or addition, any witness who*



*may have been examined, unless the Court, for reasons to be recorded in writing, considers that the prosecutor or the accused, as the case may be, desires to recall or re-examine such witness for the purpose of vexation or delay or for defeating the ends of justice;*

*(b) also to call any further witness whom the Court may think to be material.”*

6. A reading of above provision, would indicate that it is always open to the Court to alter or add to any charge at any time before judgment is pronounced and once additional charge is framed, the prosecutor and the accused shall also be allowed to recall or examine any witness with reference to such additional charge. The above position is also made by clear by the judgment of the Hon'ble Supreme Court in the case of ***Madhusudan and others V. State of Madhya Pradesh*** reported in ***2024-15-SCC-757***, wherein it was held as under:

*“20. While it is true that it is permissible for Courts to alter charges, it can only be done by careful analysis of evidence in the case.*

...

*23. ... A Court may alter or add to any charge before judgment is pronounced but when charges are*



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*altered, opportunity must be given under Section 217 of the CrPC, both to the Prosecution and the defence, to recall or re-examine witnesses in reference to such altered charges. More importantly, in case, charges are altered by the Court, reasons for the same must be recorded in the judgment.”*

7. In view thereof, this Court finds that the impugned order dated 22.10.2025 whereby additional charge under Section 493 IPC had been framed against the petitioner, may not warrant interference. It is also open to the petitioner in terms of Section 217 Cr.P.C. to recall or re-examine any witnesses or any other witnesses. Any such request made by the petitioner or the prosecution would be considered by the trial Court, keeping in view Section 217 Cr.P.C in mind.

8. With the above observation, this Criminal Revision Case is disposed of. Consequently, connected Miscellaneous Petition is closed.

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

- 1.The Judicial Magistrate,  
Additional Mahila Court,  
Nagercoil.
- 2.The Inspector of Police,  
AWPS-Nagercoil,  
Kanyakumari District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**MOHAMMED SHAFFIQ,J**

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