



*Crl.O.P.(MD)No.20594 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.20594 of 2025**

**and**

**Crl.M.P(MD) No.17471 of 2025**

1. Murugan

2. Manikandan

... Petitioners

**Vs.**

The State of Tamilnadu,  
represented by the Inspector of Police,  
Kottar Police Station,  
Kanniyakumari District.

...Respondents

**Prayer:** Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the impugned order passed by the learned Judicial Magistrate, Additional Mahila Court Nagercoil in Cl.M.P.No.538 of 2023 in C.C.286 of 2018, dated 21.03.2025 and to set aside the same and to direct the learned Judicial Magistrate, Additional Mahila Court, Nagercoil to provide an opportunity to recall and re-examine the P.W.1 to P.W.3 within the time stipulated by this Court.

For Petitioner : Mr.A.Mohamedhaneef

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



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## **ORDER**

WEB COPY This petition has been filed challenging the impugned order passed by the learned Judicial Magistrate, Additional Mahila Court, Nagercoil in Cl.M.P.No.538 of 2023 in C.C.286 of 2018, dated 21.03.2025 and to direct the learned Judicial Magistrate, Additional Mahila Court, Nagercoil to provide an opportunity to recall and re-examine the P.W.1 to P.W.3.

2. The petitioners are facing prosecution for the offences under Sections 294(b), 353 IPC and Section 4 of TNPHW Act. The P.W.1 to P.W.3 were examined in chief in the year 2018 and the petitioners had not chosen to cross examine the said witnesses. They had filed a petition before the concerned Court to recall the said witnesses only in 2023, which came to be dismissed on 21.03.2025. Challenging the same, this petition has been filed.

3. The learned counsel for the petitioners would submit that if the petitioners are not allowed to cross examine the said witnesses, their right of fair trial may be denied and one more opportunity may be given to cross examine the said witnesses.



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4. The learned Additional Public Prosecutor, on instructions, vehemently opposed the request made by the petitioners stating that the witnesses were examined in chief in the year 2018 and the case is now posted for arguments and the instant petition has been filed to delay the proceedings.

5. It is seen that though P.W.1 to P.W.3 were examined in chief in the year 2018, the witnesses have not been cross examined by the petitioners. The petitioners are certainly not justified in not cross examining the witnesses and filing the petition only in the year 2023, which came to be dismissed in the year 2025. It is seen that the P.W.1 is the complainant and the other two witnesses are eye-witnesses. This Court is not inclined to entertain this petition insofar as the P.W.2 and P.W.3. Accordingly, this petition is dismissed in respect of P.W.2 and P.W.3.

6. Since the P.W.1 is a vital witness and the victim and if she is not cross examined, the petitioners' right of fair trial would be denied. Hence, this Court is inclined to permit the petitioners to cross examine P.W.1 alone on certain stringent conditions:



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(i) The petitioners shall cross examine P.W.1 on the same day fixed by the learned Magistrate, on payment of cost of Rs.5,000/- to P.W.1. Further the petitioners shall pay Rs.5,000/- to the District Legal Services Authority, Nagercoil.

(ii) If the petitioners fail to comply with the above condition, the order passed by this Court shall stand vacated immediately.

7. With the above directions, this Criminal Original Petition is partly allowed. Consequently, connected Miscellaneous Petition is closed.

**19.11.2025**

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

Indu

**Note: Issue order copy on 20.11.2025**



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WEB COPY

- To
- 1.The Inspector of Police,  
Kottar Police Station,  
Kanniyakumari District.
  - 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



WEB COPY



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**SUNDER MOHAN, J.**

Indu

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**19.11.2025**