



Crl.O.P.(MD)No.20515 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.20515 of 2025

and

Crl.M.P(MD) No.17403 of 2025

1. Sivaraman

2. Udaiyar Thalaivar

3. Nagaraj

... Petitioners

Vs.

The State of Tamilnadu,
represented by the Inspector of Police,
Ettayapuram Police Station,
Thoothukudi District.
Crime No.85 of 2024.

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records and set aside the order, dated 23.10.2025, passed in Cr.M.P.No.3888 of 2025 in S.C.No.166 of 2024 on the file of the learned I Additional District and Sessions Judge, Thoothukudi District.

For Petitioner : Mr.K.Prabhu

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



Crl.O.P.(MD)No.20515 of 2025

ORDER

WEB COPY

The petitioner seeks to set aside the order passed by the learned I Additional District and Sessions Judge, Thoothukudi District, in Cr.M.P.No.3888 of 2025 in S.C.No.166 of 2024, permitting the prosecution to examine an additional witness, who is the Nodal officer of Airtel Telecom Limited, Chennai, who according to the prosecution is essential to establish the case.

2. The learned counsel for the petitioner would submit that at the fag end of trial, the prosecution is seeking to examine the witness only to fill up the lacuna; that the prosecution has not even stated the purpose of examining this witness and has not furnished any of the documents that are sought to be relied upon by the witness; and that therefore, the impugned order is liable to be set aside.

3. This Court would not ordinarily refuse permission to either the prosecution or the defence for producing any additional witnesses, unless it is shown that the witnesses sought to be examined are totally irrelevant to the case. It is also well settled that if the prosecution fails to examine any witness due to mismanagement, the witnesses can always be



Crl.O.P.(MD)No.20515 of 2025

summoned although they were not cited initially as witnesses. Therefore, it cannot be said that in all cases, calling for additional witnesses, is only to fill up the lacuna. This Court finds no infirmity in the order impugned.

4. However, since the documents that are sought to be marked through the witnesses were not filed originally, the prosecution is bound to furnish a copy of all those documents that are sought to be marked through the aforesaid witnesses atleast one week prior to the examination of the witnesses. The petitioner shall also be afforded sufficient opportunity to cross examine and if necessary the Court can defer the cross examination, if further instructions are required by the counsels.

5. With the above observation, 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/ars



WEB COPY



Crl.O.P.(MD)No.20515 of 2025

SUNDER MOHAN, J.

Indu/ars

To

- 1.The I Additional District and Sessions Judge,
Thoothukudi District.
- 2.The Inspector of Police,
Ettayapuram Police Station,
Thoothukudi District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P(MD).No.20515 of 2025

19.11.2025