



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2025

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

Crl.O.P.(MD)No.21970 of 2025

Sakthi

... Petitioner

Vs.

The State of Tamil Nadu,
Through the Inspector of Police,
Ponnamaravthy Police Station,
Pudukkottai District.

... Respondent

PRAYER : Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to the order dated 08.11.2024 in Cr.M.P.No.454 of 2025 in S.C.No.83 of 2023 on the file of the Mahila Court, Pudukkottai, and set aside the same.

For Petitioner : Mr.S.Ramesh Kumar

For Respondent : Mr.S.Ravi

Additional Public Prosecutor

ORDER

This petition has been filed to quash the order passed by the Mahila Court, Pudukkottai, in Cr.M.P.No.454 of 2025 in S.C.No.83 of 2023, dated 08.11.2024.



2.Challenging the order passed by the Mahila Court, Pudukkottai, in Cr.M.P.No.454 of 2025 in S.C.No.83 of 2023, dated 08.11.2024, refusing to allow the petition filed by the petitioner under Section 311 of Cr.P.C., r/w 348 of BNSS, 2023, seeking to recall P.W.4, this Criminal Original Petition is filed.

3. Mr.S.Ravi, the learned Additional Public Prosecutor submitted that the petitioner was given opportunities to cross examine P.W.4, on 03.09.2024, 04.09.2024, 05.09.2024, 10.09.2024, 13.09.2024, 20.09.2024, 23.09.2024 and 04.10.2024 respectively. Even though, he failed to avail the said opportunities and after a lapse of more than a month, on 04.11.2024, he had filed an application to recall P.W.2. When the trial court had rightly dismissed the said application on 08.11.2024, for the reason that the same has been filed only with an intention to protract the trial, now, after a lapse of nearly one year, the petitioner has filed this Criminal Original Petition challenging the said order.

4. The learned counsel for the petitioner, relying upon the judgment of the Hon'ble Apex court in the case of ***State represented by the Deputy Superintendent of Police Vs Tr.N.Seenivasagan*** in ***Crl.OP.Nos.231 & 232 of 2021 dated 01.03.2021***, submitted that an application under 311 Cr.P.C., could not be rejected on the sole ground that the case has been pending for an



inordinate period of time and sought for setting aside the impugned order dated 08.11.2024.

5. This Court carefully considered the submissions made on either side and perused the materials available on records and also the precedent relied upon by the learned counsel for the petitioner.

6. In line with the above said judgment, the impugned order passed by the Mahila Court, Pudukkottai, in Cr.M.P.No.454 of 2025 in S.C.No.83 of 2023, dated 08.11.2024 is hereby, set aside and the Criminal Original Petition is allowed.

7. The learned Judge, Mahila Court, Pudukkottai, is directed to permit the petitioner to recall P.W.4. However, the petitioner is directed to bear cost as fixed by the learned trial Judge and it is made clear that the petitioner will not further delay the trial by making any fresh applications and would facilitate concluding the cross examination on the same day of recalling.

02.12.2025

NCC : Yes / No
Index : Yes / No
dss



L.VICTORIA GOWRI, J.

dss

TO:-

1. The Mahila Court,
Pudukkottai.
2. The Inspector of Police,
Ponnamaravthy Police Station,
Pudukkottai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.O.P.(MD)No.21970 of 2025

Dated
02.12.2025