



Crl.O.P.(MD)No.22269 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.12.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD)No.22269 of 2025

and

Crl.M.P.(MD)No.19194 of 2025

Saravanakumar @ Oolaiyan Saravanan,
S/o.Chandran

... Petitioner

Vs.

The State of Tamilnadu, represented by,
The Inspector of Police,
Sellur Police Station,
Madurai City.
(Crime No.1028 of 2021)

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to the impugned order passed in Cr.M.P.No.6526 of 2025 in S.C.No.417 of 2023 dated 19.11.2025 on the file of the learned Additional Chief Judicial Magistrate, Madurai and set aside the same.

For Petitioner : Mr.D.Arun Kumar,
Advocate

For Respondent : Mr.S.Ravi,
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed to quash the impugned order in Cr.M.P.No.6526 of 2025 in S.C.No.417 of 2023 dated 19.11.2025 on the file of the learned Additional Chief Judicial Magistrate, Madurai.

2. The learned counsel for the petitioner submitted that the petitioner, who is the sole accused in S.C.No.417 of 2023, has filed this set aside petition seeking to set aside the dismissal order of the trial Court, in which the petition under Section 311 of Cr.P.C. filed by the petitioner to recall P.W.4 to P.W.6 for cross examination, came to be dismissed. He further submitted that the petitioner stood charged for the offences under Sections 392, 397, 506(3) of IPC (309(4), 311, 351(3) of BNSS) in S.C.No.417 of 2023 before the learned Additional Chief Judicial Magistrate, Madurai, on the allegation that on 17.12.2021, at 08.00 a.m., while the de-facto complainant was walking at CSI Cemetery near Thathaneri main road, the petitioner/accused intercepted the de-facto complainant and robbed a sum of Rs.450/- from the de-facto complainant.

3. He further submitted that P.W.4 is the de-facto complainant, and P.W. 5 is the Sub Inspector, Duty officer, who received the complaint and registered the case, and P.W.6 is the investigating officer. P.W.4 was examined on



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12.08.2025, and both P.W.5 and P.W.6 were examined on 09.09.2025, and at the time of hearing, the petitioner / accused was absent and the petitioner's counsel was held on another Court and due to his inadvertence, the witnesses were not cross examined and hence, a recall petition was filed under Section 311 of Cr.P.C. in a regular format by the petitioner's counsel. However, the trial Court, by perusing the said petition, dismissed for not appropriately appraising any reason for not cross examining the witnesses, on the day when they were examined in chief.

4. Pleading before this Court that the petitioner should not be made to get suffered due to the inadvertence of the petitioner's counsel, who appeared before the trial Court, the petitioner herein sought for setting aside the impugned order.

5. Mr.S.Ravi, learned Additional Public Prosecutor, on instructions, submitted that the petitioner is a notorious person, who has six previous cases, and that his antecedents are not good. Hence, it is not necessary to consider setting aside the order passed by the trial Court, when there is no infirmity in the same.



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6. However, this Court is of the considered view that the right of fair trial to any accused person, even if he has bad antecedents, should not be denied. No doubt, it was only due to the inadvertence of the learned counsel, who was appearing for the petitioner before the trial Court, the witnesses were left without being cross-examined on two occasions, ie., on 12.08.2025 and 09.09.2025. I do not find any infirmity in the order passed by the learned Additional Chief Judicial Magistrate, Madurai, wherein the learned Judge even went to the extent of scanning the recall petition filed by the petitioner's counsel, in which no reason had been stated explaining why the witnesses were not cross-examined on the day when they were examined in chief.

7. However, considering facts and circumstances of the case and also considering the plight of the petitioner, the impugned order passed in Cr.M.P.No.6526 of 2025 in S.C.No.417 of 2023, dated 19.11.2025, by the learned Additional Chief Judicial Magistrate, Madurai, is set aside and this Criminal Original Petition is allowed.

8. The learned Additional Chief Judicial Magistrate, Madurai, is directed to afford an opportunity to the petitioner to recall the witnesses. On strict terms, it is directed that the petitioner shall examine the witnesses on the very same



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day of appearance without seeking any adjournment. The petitioner is also directed to bear the cost of the witnesses when they are recalled. Consequently, connected Criminal Miscellaneous Petition is closed.

04.12.2025

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

Note : *Issue order copy on 04.12.2025.*

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To

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



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L.VICTORIA GOWRI, J.

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