



Crl.O.P.(MD)No.420 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2025

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.420 of 2025

1.Alexraj

2.Ravichandran

... Petitioners

Vs.

The State of Tamil nadu,
rep., by the Inspector of Police,
CBCID Madurai,
Madurai District.
Crime No.2 of 2019

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS Act, to call for the records and to allow this petition and set aside the order passed by V Additional District and Sessions Court, Madurai, dated 12.11.2024 in Cr.M.P.No.1542 of 2024 in S.C.No.289 of 2021 and recall prosecution witness 83 for the purpose of cross-examination.

For Petitioners

: Mr.M.Prabhakaran

For Respondent

: Mr.A.Thiruvadikumar

Additional Public Prosecutor



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ORDER

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The petitioners, who are A1 and A3 in S.C.No.289 of 2021 had filed a petition in Cr.M.P.No.1542 of 2024 to recall P.W.83, initial investigating officer, who had registered a case and conducted investigation till the case was transferred to the file of CBCID. The trial Court by order dated 12.11.2024 dismissed the same, against which, the present petition.

2. The learned counsel for the petitioners submitted that the petitioners have been prosecuted with two more accused for the offence under Sections 343 and 304(ii) of IPC. The petitioners are Police officials and they have been prosecuted for custodial death. The trial Court had dismissed the petition primarily on the ground that directions have been given by this Court in W.P(MD).No.3669 of 2022 as to give priority and complete the case without delay. In this case, there are 114 witnesses cited by the prosecution. The petitioners cross-examined the witnesses then and there without delay. P.W.83 is the Investigating Officer, who had registered a case and conducted investigation. On 11.09.2024, P.W.83 was cross-examined in chief, at that time, there was a boycott was initiated by Madurai Bar Association and hence, the



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learned counsel for the petitioners was unable to cross-examine P.W.83.

He further submitted that in this case, CBCID /Investigating Officer is to be examined on 24.01.2025, on that day, if P.W.83 present, the petitioners can cross-examine him, without any delay and thereby, no prejudice would be caused to the prosecution and it would be beneficial to the trial Court to refer the evidence of P.W.83 and arrive at justice. If P.W.83 is not cross-examined, let prejudice would be caused to the petitioners who have to put forth the initial facts of the case since thereafter, the case got magnified and several additions have been made. In view of the same, cross-examination of P.W.83 is very much necessary.

3. The learned Additional Public Prosecutor fairly submitted that in this case on the cross-examination of P.W.83 on 11.09.2024, there was boycott and advocates not appeared before the trial Court. He further submitted that the trial is in progress and the case is posted on 24.01.2025 for examination of further witnesses.

4. In view of the above, this Court finds by recalling P.W.83 for the purpose of cross-examination would no way further delay the case



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and it would be beneficial for the trial Court to test the evidence of P.W.

83. In view of the same, this Court set aside the order passed by the learned V Additional District and Sessions Judge, Madurai, in Cr.M.P.No.1542 of 2024 in S.C.No.289 of 2021 on 12.11.2024. The petitioner undertakes to cross examine P.W.83 on 24.01.2025, when he appears on that day or any other day without any further delay. A2 and A4 though who have not filed the petition to recall P.W.83, in view of the boycott they are also suffered, they may also be permitted to cross-examine P.W.83 on his appearance.

5. With the above direction, this Criminal Original Petition is allowed.

NCC : Yes / No

09.01.2025

Index : Yes / No

Rmk

NOTE : Issue order copy on 21.01.2025

To

1.V Additional District and Sessions Court, Madurai.

2.The Inspector of Police,
CBCID Madurai,
Madurai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.NIRMAL KUMAR, J.

Rmk

Order made in
Crl.O.P.(MD)No.420 of 2025

Dated: 09.01.2025