



CRL.OP(MD) NO.3093 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL. O.P(MD) No.3093 of 2025

and

CRL M.P(MD) No.2107 of 2025

Vijayalakshmi

... Petitioner/Defacto
complainant

vs.

1.Rajalakshmi

2.The Inspector of Police,
District Crime Branch Police Station,
Trichy.
(Crime No.04/2015)

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 to call for the records and set aside the order passed in Crl.Revision Case No.94 of 2022, on the file of the Principal District and Sessions Judge of Tiruchirappalli.



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For petitioner : Mr.S.RAmsundaravijayraj
For Respondents : Mr.M.Sakthi Kumar,
Government Advocate (Crl.Side) for R2

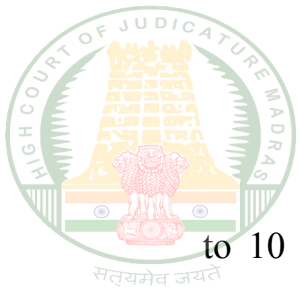
ORDER

This petition has been filed by the petitioner to call for the records and set aside the order passed in Crl.Revision Case No.94 of 2022, on the file of the Principal District and Sessions Judge of Tiruchirappalli.

2. Mr.M.Sakthi Kumar, the learned Government Advocate (Crl.Side) takes notice to the second respondent.

3. The short facts, which are necessary to disclose the case, are as follows:

The petitioner is the defacto complainant in the case in C.C.No.991 of 2021, on the file of the Judicial Magistrate Court No.1, Trichy and the case was posted for examination of witnesses and P.W.1 to 10 were also examined on various dates. While so, the first respondent herein, who is the first accused in that case, filed a petition to recall the witnesses/P.W.1



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to 10 and the same was dismissed by the Trial Court, in CrI.M.P. No. 14725 of 2021, dated 17.02.2022. Aggrieved by the said order, the first respondent herein has preferred a revision before the Principal District and Sessions Judge, Trichy in Criminal Revision No.94 of 2022 and the same was allowed by setting aside the order of the Trial Court and directed the Trial Court to issue summon to the witnesses for cross-examination. Aggrieved over the same, the present petition is filed by the defacto complainant.

4. The learned counsel appearing for the petitioner would submit that the petitioner is the defacto complainant in this case and the first respondent is the first accused. Already P.W.1 to 10 were chief examined, but, the first respondent failed to cross-examine the witnesses. Therefore, she filed the petition before the Trial Court to recall the witnesses and the same was dismissed, against which, the first petitioner filed Review petition before the Principal District and Sessions Judge, Trichy in CrI.Revision No.94 of 2022 and the same was allowed. The learned Sessions Judge, without considering the facts that the petitioners/accused therein were not attending the trial properly and only to delay the case, they got adjournments and therefore, the Trial Court dismissed the



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petition, erroneously, the revision Court allowed the petition. Therefore, the order passed by the Principal District and Sessions Judge, Trichy in Crl.Revision case No.94 of 2022 is liable to be set aside.

5. Considering the nature of the prayer sought for in this petition, even without issuing notice to the first respondent, this Court is inclined to dispose of the petition at the stage of admission itself.

6. According to the petitioner, the first respondent herein is the accused and she failed to cross-examine the witnesses, due to which she filed the petition before the Trial Court in Crl.M.P. No.14725 of 2021 in C.C.No.991 of 2021 and the same was dismissed by the learned Magistrate, through order, dated 17.02.2022. The first respondent has challenged the same before the Principal District and Sessions Judge, Trichy in Crl.Revision No.94 of 2021 and the same was allowed by setting aside the order of the learned Magistrate and permitted the first respondent to cross-examine the witnesses.

7. The learned Magistrate dismissed the said petition, on the ground that already an opportunity was given, but, the first respondent has not

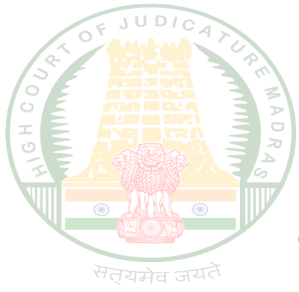


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availed the same. However, the learned Sessions Judge allowed the

Revision giving one more chance to the first respondent.

8. The learned Sessions Judge has entertained the revision petition filed under Section 397 of Cr.P.C., in which, no objection was raised by the petitioner before the Revision Court for the maintainability. The learned Sessions Judge by giving adequate reasons that considering the nature and gravity of the offences and to ensure the fair trial, the first respondent herein must be given an opportunity to cross-examine the witnesses and therefore, the order passed by the learned Magistrate was set aside by allowing the petition. This Court also perused entire records and the witnesses have not been cross-examined by the defence side. Therefore, in order to give fair opportunity to the accused and to ensure the fair trial the revision Court has passed reasoned order, hence warrants no interference. The petitioner, being the defacto complainant, cannot challenge the order passed by the Sessions Judge, as a matter of right, as the scope is limited and it is between the Court and the accused. Therefore, this Court is of the opinion that this petition has no merit and deserves to be dismissed.



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9. Accordingly, this Criminal Original Petition is dismissed.

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Consequently, connected miscellaneous petition is closed.

18.02.2025

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

To

1.The Inspector of Police,
District Crime Branch Police Station,
Trichy.

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



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P.DHANABAL,J

apd

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