



Crl.O.P(MD)No.6472 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

Crl.O.P(MD)No.6472 of 2025

and

Crl.M.P(MD)No.4715 of 2025

Maharajan

... Petitioner

Vs

**Iyyapan (Died),
1. Prabhu Raja**

... Respondent

PRAYER: Criminal Original petition has been filed under Section 528 of BNSS to set aside the docket order passed in Crl.M.P. No. 2703 of 2024 in C.C. No. 976 of 2020 on the file of the Learned District Munsif cum Judicial Magistrate, Radhapuram dated 09.08.2024 and to recall the witness of the PW2 for cross examination.



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For Petitioner : Mr.R.Ponkarthikeyan,

ORDER

This Criminal Original Petition has been filed seeking a direction to set aside the docket order passed in Crl.M.P. No. 2703 of 2024 in C.C. No. 976 of 2020 on the file of the learned District Munsif cum Judicial Magistrate, Radhapuram dated 09.08.2024 and to recall the witness of the PW2 for cross examination.

2.The learned Counsel for the petitioner would submit that the petitioner is the accused in C.C.No.976 of 2020, on the file of the learned District Munsif cum Judicial Magistrate, Radhapuram. On 15.03.2024, the P.W.2 was examined. On that date, the petitioner was unable to cross examine the said witness and the petitioner filed a recall petition and the same was allowed on condition to pay a sum of Rs.500/- on or before 10.05.2024. But the date of hearing was wrongly mentioned by the petitioner's counsel and thereby, the petitioner remitted



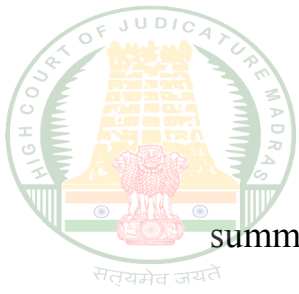
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the amount on 29.05.2024. Therefore, trial Court dismissed the application as condition not complied. In fact, due to oversight mistake, the date was wrongly noted as 29.05.2024 instead of 10.05.2024. Therefore, the impugned order is liable to be set aside.

3.Considering the limited scope of the prayer sought for in this petition, this Court, without even issuing notice to the private respondent, is inclined to pass order.

4.Since the trial Court already allowed the petition on condition to deposit a sum of Rs.500/- on or before 10.05.2024 and the same was deposited only on 29.05.2024 and the reasons stated by the learned Counsel for the petitioner that the date was wrongly noted and the amount was already paid, it is appropriate to allow this petition. Since the witnesses have not been cross examined so far, the trial Court ought to have allowed the petition by accepting the reasons. However, the trial Court failed to do the same.

5.Accordingly, this Criminal Original Petition is allowed and the order of trial Court is set aside, with a direction to the trial Court to issue



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summon to the P.W.2 by fixing a date for cross examination. On that date, the petitioner has to cross examine the said witness without fail.

Consequently, connected miscellaneous petition is closed.

08.04.2025

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

To

1.The District Munsif cum Judicial Magistrate,
Radhapuram.

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



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P. DHANABAL, J.

LR

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