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CRL OP No. 5379 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 25-03-2026**

CORAM

**THE HON'BLE MR JUSTICE M. NIRMAL KUMAR**

**CRL OP No. 5379 of 2026**

Muralidharan

..Petitioner(s)

Vs

Anusuya

..Respondent(s)

Criminal Original Petition is filed under Section 528 of B.N.S.S., to set-aside the order dated 12.01.2025 passed in CrI.M.P.No.831 of 2025 in C.C.No.39 of 2021 on the file of the Additional Mahila Court (Judicial Magistrate Level) Tiruvannamalai.

For Petitioner(s):

Mr.A.Prabhakaran

### **ORDER**

This Criminal Original Petition has been filed seeking to set aside the order dated 12.01.2025 made in CrI.M.P.No.831 of 2025 in C.C.No.39 of 2021 on the file of the Additional Mahila Court (Judicial Magistrate Level) Tiruvannamalai.

2. The respondent herein filed a complaint under the Domestic Violence Act against the petitioner, which was later transferred and renumbered. The trial Court passed an ex parte order granting maintenance of Rs.25,000/- per month along with other reliefs. The petitioner's attempt to set



aside the ex parte order was dismissed, including subsequent restoration and delay condonation petitions. Meanwhile, execution proceedings were initiated by the respondent and a separate complaint under Sections 31 and 32 of the Act was taken on file. The petitioner's revision before the High Court was disposed of with liberty to file an appeal, leading to further appellate proceedings, including a direction to deposit 50% of the maintenance amount. During execution, the respondent examined witnesses, but the petitioner failed to cross-examine one of them (P.W.2). His application to recall the witness under Section 311 Cr.P.C., was dismissed by the trial Court on the ground that it was filed only to delay proceedings and without complying with maintenance orders. Aggrieved by the dismissal of the recall petition, the petitioner has approached this Court seeking to set aside the same.

3. The learned counsel for the petitioner submitted that the trial Court erred in dismissing the petition filed under Section 311 of Cr.P.C., to recall P.W.2 for cross-examination. It was contended that cross examination is a valuable right and denial of the same causes serious prejudice to the petitioner. The failure to cross-examine P.W.2 was not wilful but due to unavoidable circumstances. Hence, one more opportunity ought to have been granted in the interest of justice.



4. Heard the learned counsel for the petitioner and perused the materials available on record.

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5. On perusal of the records, this Court finds that the petitioner had been afforded adequate opportunities to cross-examine P.W.2 but failed to do so. The petition under Section 311 Cr.P.C., appears to have been filed belatedly without sufficient cause. Further, the conduct of the petitioner indicates an attempt to protract the proceedings, particularly in the light of non-compliance with the maintenance order. Hence, this Court finds no infirmity or illegality in the order passed by the trial Court.

6. In the result, this Criminal Original Petition stands dismissed by confirming the order dated 2.01.2025 passed in Crl.M.P.No.831 of 2025 in C.C.No.39 of 2021 on the file of the Additional Mahila Court (Judicial Magistrate Level) Tiruvannamalai.

**25-03-2026**

Index: Yes/No  
Speaking/Non-speaking order  
Neutral Citation: Yes/No

VKR

To

1.The Additional Mahila Court (Judicial Magistrate Level) Tiruvannamalai.



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**M.NIRMAL KUMAR, J.**

**VKR**

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