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CRL OP No. 9428 of 2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-04-2026

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 9428 of 2026

and

CRL MP No.6658 of 2026

Selvam

Petitioner(s)

Vs

The State Rep by,
The Station House Officer
AWPS, Kottakuppam.
Crime No.01 of 2017.

Respondent(s)

PRAYER: Criminal Original Petition filed under Section 528 of BNSS, 2023, to set aside the order passed by the Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court) at Villupuram in Criminal Misc. Petition No.7118 of 2024 in SC.No.6 of 2020 dated 22.04.2025 and pass such further or other orders as this Court may deem fit.

For Petitioner(s): Mr.R.Sreedhar

For Respondent(s): Mr.R.Vinoth Raja
Government Advocate (Crl. Side)



ORDER

This Criminal Original Petition has been filed to set aside the order dated 22.04.2025 passed by the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram in Crl.M.P.No.7118 of 2024 in SC.No.6 of 2020.

2. The petitioner, who is the accused in S.C.No.6 of 2020, is facing trial for the alleged offence under Section 376, 506(2) and 417 of IPC. The petitioner had filed Crl.M.P.No.7118 of 2024, seeking to recall PW1 to PW7 for the purpose of cross examination. The said petition was dismissed by the trial Court. Challenging the same, the petitioner has filed the present petition.

3. Heard both sides and perused the materials available on record.

4. On perusal of the record, it is seen that PW1 and PW2 were examined on 05.01.2021, and PW3 to PW7 were examined on subsequent dates. Due to non availability of DNA report PW1 to PW7 were not cross examined. It is the defence of the petitioner/accused that the relationship between him and the victim was consensual, and both were majors, and that their relationship existed

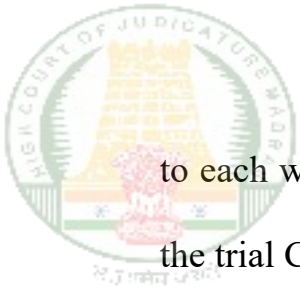


for a considerable period, which was known to other witnesses. Therefore, it is necessary for the petitioner to cross-examine the said witnesses in support of his defence.

5. It is an admitted fact that none of the witnesses have been cross examined and the evidence can be said to be complete only after it is tested by cross-examination, which would enable the trial Court to arrive at a just and proper decision.

6. Considering the submissions made by the learned counsel on either side and in view of the facts and circumstances of the case, this Court is of the view that denying the opportunity to cross-examine the witnesses would amount to denial of a fair trial. The evidence attains completeness only when it is subjected to cross-examination. Admittedly, DNA report furnished to the petitioner belatedly, and Section 207 of Cr.P.C., was not complied.

7. In view of the above, the impugned order dated 22.04.2025 in CrI.M.P.No.7118 of 2024 in S.C.No.06 of 2020 on the file of the Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram, is set-aside. The trial Court is directed to recall PW1 to PW7 for the purpose of cross examination, on the condition that the petitioner shall pay a sum of Rs.2,000/-



to each witness, totalling Rs.14,000/- before the trial Court. Upon such deposit, the trial Court shall disburse Rs.2,000/- to each of the witnesses.

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8. The petitioner shall cross examine the witnesses on the day of their appearance without seeking any adjournments. It is made clear that, if the petitioner fails to cross examine the witnesses on such date, no further opportunity shall be granted.

9. In the result, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

16-04-2026

Jd

Neutral Citation: Yes/No

Note: Issue order copy today i.e., on 07.05.2026.

To

1. The Learned Sessions Judge,
Magalir Neethi Mandram (Fast Track Mahila Court)
Villupuram.

2. The Public Prosecutor,
Madras High Court, Chennai.



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M.NIRMAL KUMAR J.
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