



WEB COPY

CRL OP No. 1705 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-02-2026

CORAM

THE HON'BLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP No. 1705 of 2026

1. Rajavadivelu
 2. Tamivanan @ Karikalan
 3. Subash Chandrabose @ Subash
- ..Petitioners

Vs

1. The Deputy Superintendent of Police
Thiruthuraipoondi,
Tiruvarur District.
2. The Inspector of Police
Thiruthuraipoondi police station,
Tiruvarur district.
Cr.No.2760/2020
3. Moorthy

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the adjudication order passed in Spl.S.C.No.17/2005, dated 25.09.2025 on the file of the Special Court for trial of Cases under SC/ST (PoA) Act, Tiruvarur and recall the P.W-3 and P.W-10 for cross examination.

For Petitioners : Ms.S.Sivasanakari

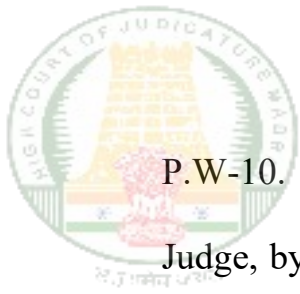
For Respondents:
1 and 2 Mr.S.Santhosh,
Government Advocate (Criminal Side)



ORDER

This Criminal Original Petition is filed to set aside the adjudication order passed in Spl.S.C.No.17/2005, dated 25.09.2025 on the file of the Special Court for trial of Cases under SC/ST (PoA) Act, Tiruvarur and recall P.W-3 and P.W-10 for cross-examination.

2. The learned counsel appearing for the petitioners submitted that the petitioners are the accused 1 to 3, facing trial for the offences under Sections 294(b), 323, 324, 506(2) of IPC and Sections 3(1)(r), 3(1)(s) and 3(2)(v) of SC/ST (Prevention of Atrocities) Act in Spl.S.C.No.51 of 2021 before the learned Additional District Judge (PCR) at Thanjavur. She further submitted that the case was originally pending before the learned Additional District Judge (PCR) at Thanjavur. During the pendency of appeal, the petitioners have filed an application under Section 348 of BNSS, 2023, to recall P.W-2, P.W-3 and P.W-10 on 13.11.2024, in Crl.M.P.No.1182 of 2024 and the same was allowed by the trial Court on 13.02.2025. The petitioners had cross-examined P.W-2 on 10.03.2025 and the above matter was posted for cross-examination of P.W-3 and P.W-10 on 15.04.2025. While so, the case in Spl.S.C.No.51 of 2021 was transferred to the file of the Special Court for trial of Cases under SC/ST (PoA) Act, Tiruvarur and re-numbered as Spl.S.C.No.17 of 2025. Due to the transfer of the case, the petitioners were not given proper legal assistance and hence, the petitioners were unable to pay the process fee for the production of P.W-3 and



P.W-10. Since the petitioners had not paid the process fee, the learned trial Judge, by order of adjudication dated 25.09.2025, closed the cross-examination of P.W-3 and P.W-10.

3. The learned counsel appearing for the petitioners further submitted that the petitioners are facing charges for the offences under IPC and SC/ST (PoA) Act, P.W-3 and P.W-10 are relevant witnesses and their evidence is necessary for arriving at a just decision of the case. She also submitted that if the order of adjudication dated 25.09.2025 is not set aside and the petitioners are not permitted to pay the process fee and also the witnesses are not recalled and allowed to be cross-examined, the petitioners will be put to a serious predicament. The learned counsel for the petitioners further submitted that the petitioners are ready to deposit the process fee and the petitioners also undertake to cross-examine P.W-3 and P.W-10 on the same date of their appearance before the trial Court, without fail and thereby seek to set aside the order of adjudication dated 25.09.2025.

4. The learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 submitted that though the case was originally pending before the learned Additional District Judge (PCR) at Thanjavur, later, it was transferred to the file of the Special Court for trial of Cases under SC/ST (PoA) Act, Triuvavur. He further submitted that since the petitioners had not paid the



process fee, the cross-examination of P.W-3 and P.W-10 was closed. Now, the case stands posted on 12.02.2026 for Section 313 Cr.P.C. questioning. P.W-3/Mahendran is the eye-witness and P.W-10 is the Deputy Superintendent of Police, who conducted the investigation and filed final report.

5. Heard the learned counsel for the petitioners and the learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2.

6. Though there had been lapses on the part of the petitioners, this Court is of the view that the cross-examination of P.W-3 and P.W-10 is necessary for arriving at a just decision of the case and if the petitioners are not allowed to cross examine P.W-3 and P.W-10, it will cause serious prejudice to the petitioners. When this Court enquired the respondent police as to whether they will be able to produce P.W-3 and P.W-10 for the purpose of cross-examination on a particular date fixed by the trial Court, the learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2, on instructions from Mr.M.Kazhaniyappan, Inspector of Police, Thiruthuraipoondi, submitted that the respondent police will be able to produce P.W-3 and P.W-10 on any date fixed by the learned trial Judge.

7. In view of the above, this Criminal Original Petition stands allowed. The order of adjudication dated 25.09.2025 stands set aside. The



petitioners are directed to pay the process fee on or before 06.02.2026. On such payment of process fee by the petitioners, the learned trial Judge shall fix the date and summon P.W-3 and P.W-10 for cross-examination. It is made clear that in the event of the petitioners failing to cross-examine P.W-3 and P.W-10 on the date fixed by the trial Judge, they will lose further opportunity to cross-examine them.

02-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

SRM

Note: Issue order copy on 03.02.2026

To

1. The Special Judge for trial of Cases under SC/ST (PoA) Act, Tiruvarur.
2. The Deputy Superintendent of Police
Thiruthuraipoondi, Tiruvarur District.
3. The Inspector of Police
Thiruthuraipoondi police station,
Tiruvarur district.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

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