



Crl.O.P(MD)No.1923 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2026

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P(MD)No.1923 of 2026

and

Crl.M.P(MD)No.2155 of 2026

Anbuthamizhan

... Petitioner/A1

Vs.

The State of Tamil Nadu,
rep.by The Inspector of Police,
Nagudi Police Station,
Pudukottai District.
(Crime No.115/2021)

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the order dated 01.11.2025 made in Crl.M.P.No.2874 of 2025 in S.C.No.25 of 2022 on the file of the learned Additional District and Sessions Judge, Pudukottai and set aside the same.

For Petitioner : Mr.J.William Christopher

For Respondent : Mr.S.Ravi
Additional Public Prosecutor



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Crl.O.P(MD)No.1923 of 2026

ORDER

Seeking to set aside the order passed by the learned Additional District and Sessions Judge, Pudukottai in Crl.M.P.No.2874 of 2025 in S.C.No.25 of 2022 dated 01.11.2025, this criminal original petition is filed.

2. The learned counsel for the petitioner submitted that he was the 1st accused before the learned trial Court in S.C.No.25 of 2022. He had filed an application under Section 311 of Cr.P.C to recall the case for the purpose of further cross examination of P.W.12. However, the same came to be rejected by the learned trial Court. He further submitted that instead of seeking further cross examination of P.W.7, by means of typographic error, he had mentioned as P.W.12. Total number of L.Ws in the aforesaid case itself were seven. Under such circumstances, without considering the fact that instead of P.W.7, by typographical error it has mentioned as P.W.12, the trial Court had dismissed the said application.



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3. The specific ground which was taken by the petitioner before the learned trial Court is that the learned Judge had not allowed the petitioner to contradict the witness in the manner known to law as per Section 145 of Evidence Act and and sought the indulgence of this Court.

4. Per Contra, the learned Additional Public Prosecutor pointed out the analysis and reasoning of the learned trial Court in Paragraph No.5 (v) and (vi) of the impugned order and categorically contended that the learned trial Court has properly discussed, analyzed and thereafter, rejected the petitioner's claim after recording the fact that P.W.7 who is none other than the Investigating Officer had been subjected to elaborate cross examination running to pages by putting all necessary questions relevant for the purpose of contradicting the prime witness, who is the Investigating Officer and under such circumstances, there is no infirmity and sought to dismiss the case.



Crl.O.P(MD)No.1923 of 2026

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5. Heard the learned counsel on either side and carefully perused the materials available on record.

6. The learned counsel for the petitioner submitted that in his application filed under Section 311 of Cr.P.C before the learned trial Court seeking further further cross examination, he had clearly pleaded the necessity for further cross examination of P.W.7, wherein it was contended that during cross examination of P.W.7, when the defence counsel had raised questions to contradict P.W.7 by citing the depositions of prosecution witnesses in their chief with their earlier statements given under Section 161 (3) of Cr.P.C, P.W.7 answered in negative as against the original statements given by those witnesses, even without verifying the case diary. Immediately, when the defence counsel attempted to draw the attention of the witness by showing the statements under Section 161 (3) Cr.P.C of the witnesses as contemplated under Section 145 (2) of the Evidence Act, the learned trial court sternly denied the opportunity for further cross examining



P.W.7 by citing the lengthy and multiple statements under Section 161 (3) Cr.P.C of the witnesses. Though the defence counsel raised serious objection in this regard, the learned trial Court compelling the defence counsel to raise such points during arguments, closed the cross examination of PW7. Hence, left with no other option, the petitioner filed the said application under Section 311 Cr.P.C seeking further cross examination of P.W.7. The learned counsel for the petitioner relying upon the judgment of the Hon'ble Division Bench of this Court in the case of ***D.Sudhakar & Others Vs. The State of Tamil Nadu, Rep. by The Inspector of Police***¹ categorically contended that Section 145 of the Evidence Act is divided into two parts. The first part is, without showing or proving the previous statement, general questions can be put to the witness in the cross examination. In case of a negative answer from the witness, then the second part of Section 145 comes into play if the defence wants to contradict him and thereby impeach the credibility of his testimony under Section 155 (3) of the Evidence Act. In this regard, following the mandates of the said judgment, when the learned defence counsel before the trial Court had attempted to draw

¹ Crl.A.No.226 of 2012, dated 07.03.2014



adverse attention of the witness so as to impeach the credibility of testimony on the negative answer given by him with respect to the original statements of the L.Ws under Section 161(3) of Cr.P.C, it was the learned trial Court which had cut short the procedure and had refused to accommodate the further cross examining of the said witness and close the cross examination of P.W.7 causing great hardship to the petitioner, since the petitioner and his family are facing grave charges before the learned trial Court. Under such circumstances, he pointed out that the contention of the learned Additional Public Prosecutor that application is now filed by the petitioner only to protract the proceedings is not sustainable and sought the indulgence of this Court.

7. However, the learned Additional Public Prosecutor drew my attention to the fact that the impugned order was passed on 01.11.2025. Though the petitioner had made a copy application on 05.11.2015 itself, the stamps were called for on 20.11.2025 and the stamps were deposited on the same day and copies were made on the same day 20.11.2025. Despite the copies made ready on 20.11.2025, the same was delivered



Crl.O.P(MD)No.1923 of 2026

only on 20.01.2026. That will show the inadvertence of the petitioner in collecting the copies which were made ready on 20.11.2025 after a span of two months and thereafter filing an application before this Court so as to protract the proceedings and categorically contended that the same need not be permitted. However, this Court is of the considered view that the opportunity of fair trial to the petitioner who is facing grave charges should not be denied. Strictly following the mandates of the Evidence Act under Section (145), obviously, whatever be the length or style of statements under Section 161 (3) of Cr.P.C obtained by P.W.7 from the various laws, it is the bounden duty of the learned trial Court to be patient enough to conduct criminal trial by giving fair opportunity of contradicting the prime witness who had answered in negative which would give an opportunity for the defence counsel to invoke the mandates of second part of Section 145 so as to contradict P.W.7 to impeach the credibility of his testimony under Section 155 (3) of Evidence Act. Each and every procedure established under the Code of Criminal Procedure and the Evidence Act should be dealt with by the learned trial Court with caution and considerate mind with the balance



Crl.O.P(MD)No.1923 of 2026

so as to justify a fair trial and fair opportunity of hearing go to the prosecution as well as the defense. In this case, I find merit in the argument putforth by the learned counsel for the petitioner. However, considering the inadvertence on the part of the learned trial defence counsel in obtaining the copies which were made ready after two months, this impugned order dated 01.11.2025 made in Crl.M.P.No. 2874 of 2025 in S.C.No.25 of 2022 on the file of the learned Additional District and Sessions Judge, Pudukottai is set aside and the learned trial Court is directed to give an opportunity of further cross examining P.W. 7 on fixing a batta to pay to P.W.7 an amount of Rs.5,000/- and it is made clear that the learned counsel for the petitioner should conclude the further cross examination for the purpose of contradicting him on the specific lines as sought for by the learned counsel in his earlier petition under Section 311 on the same day. No further adjournment will be permissible.



Crl.O.P(MD)No.1923 of 2026

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8. Accordingly, this Criminal Original Petition is allowed.

Consequently, connected Miscellaneous Petition is closed.

02.02.2026

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

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To

- 1.The Additional District and Sessions Judge,
Pudukottai.
- 2.The Inspector of Police,
Nagudi Police Station,
Pudukottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P(MD)No.1923 of 2026

L.VICTORIA GOWRI, J.

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Crl.O.P(MD)No.1923 of 2026

02.02.2026