



Crl.OP(MD).No.2645 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.04.2026

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.2645 of 2024
and
Crl.M.P.(MD).No.2060 of 2024

Muthu @ Palaya Muthu

...Petitioner/Accused No.2
Vs

The Inspector of Police
Muthaiyapuram Police Station
Thoothukudi District.
Crime No.167 of 2015

...Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS Act, to call for the records in Crl.MP.No.22 of 2024 in SC.No.14 of 2019 on the file of the II-Additional Sessions and District Judge,Thoothukudi and set aside the same and pass such other order or orders.

For Petitioner	: M/s.KA.Raamakrishnan
For Respondent	: Mr.R.Meenakshi Sundaram Additional Public Prosecutor

ORDER

The present petition has been filed by the 2nd accused in S.C.No.14 of 2019 on the file of the II Additional District and Sessions Judge, Thoothukudi, wherein, application filed by the petitioner under Section 311 of Cr.P.C. was dismissed.



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2. A perusal of the records reveals that the petitioner and others were charged with offences punishable under Sections 120(b), 341, 295(b), 506(ii), and 302 of the IPC. The trial is pending before the concerned Court. P.Ws. 1 to 5 were examined on 04.12.2023. The petitioners' counsel sought time to cross-examine the prosecution witnesses on the ground that he had not visited the scene of occurrence. Thereafter, the petition under Section 311 Cr.P.C. was filed on 02.01.2024. The trial Court dismissed the said application, relying on the delay caused by the accused prior to 04.12.2023. Challenging the same, the present petition has been filed.

3. The learned Counsel appearing for the petitioner would submit that P.Ws. 1 to 5 were examined on 04.12.2023, and that the application was filed on the next date of hearing. Therefore, the trial Court was not justified in relying upon the proceedings that had taken place prior to 04.12.2023.

4. Heard the learned Counsels appearing on either side and perused the materials available on record.

5. As rightly contended by the learned Counsel for the petitioner, only the conduct of the accused after the chief-examination has to be taken into



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consideration while considering the merits of an application filed under Section 311 Cr.P.C. In the present case, P.Ws. 1 to 5 were examined on 04.12.2023, and on the next date of hearing, i.e., 02.01.2024, the present application was filed to recall P.Ws. 1 to 5.

6. In such circumstances, the order passed in Crl.M.P.No.22 of 2024 in S.C.No.14 of 2019 is hereby set aside and the application filed under Section 311 of Cr.P.C. stands restored. The petitioners are directed to complete the cross-examination on a single day.

7. With the above said observations, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

02.04.2026

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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R.VIJAYAKUMAR, J.

gvn

To:

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

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