



CrI.O.P.(MD)No.3979 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **24.02.2026**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

CrI.O.P.(MD)No.3979 of 2026
& CrI.M.P.(MD)No.4312 of 2026

Mahendran

... Petitioner

Vs.

The State of Tamil Nadu Rep. by
The Inspector of Police,
Traffic North Police Station,
Trichy City.
Crime No.193 of 2019

... Respondent

PRAYER : Petition filed under Section 528 of BNSS, 2023 to call for the records pertaining to the order passed by the learned Judicial Magistrate No.I, Tiruchirapalli in Cr.M.P.No.26862 of 2022 in CC No.218 of 2020 dated 20.07.2023 and set aside the same.

For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondent : Mr.S.Ravi

Additional Public Prosecutor



CrI.O.P.(MD)No.3979 of 2026

ORDER

WEB COPY

This petition has been filed seeking to set aside the order passed by the learned Judicial Magistrate No.I, Tiruchirapalli in Cr.M.P.No.26862 of 2022 in CC No.218 of 2020 dated 20.07.2023.

2. The learned counsel appearing for the petitioner submitted that the petitioner is the sole accused in the pending trial in CC No.218 of 2020 on the file of the learned Judicial Magistrate No.I, Tiruchirapalli, where the petitioner had filed a petition under Section 311 of Cr.P.C., to further cross-examine PW1 to PW4. However, the same was dismissed by the trial Court without any proper reason and hence this petition came to be filed.

3. The learned Additional Public Prosecutor appearing for the respondent police submitted that, on the mere pretext that the petitioner had engaged a new counsel to defend the case on 21.09.2022, the petitioner filed a petition under Section 311 of Cr.P.C. on 19.10.2022. However, the said petition was filed solely on the ground that PW1 to PW4 had not been effectively cross-examined by the previous defence counsel. The trial Court, rejecting the said ground as untenable and observing that it would not constitute a valid basis for invoking the powers of the Court under Section 311 Cr.P.C., concluded that the



Crl.O.P.(MD)No.3979 of 2026

petitioner is not entitled to recall PW1 to PW4 for further examination. It was further submitted that there is no infirmity in the said order and, therefore, the petition is liable to be dismissed.

4. Heard the learned counsel on either side and carefully perused the materials placed before this Court.

5. It is seen that this petition has been filed after a period of two years from the date of the impugned order.

6. However, the learned counsel appearing for the petitioner justified the delay in filing this petition by stating that the order was made ready only after a lapse of one year. Thereafter, a revision was preferred before the learned Sessions Judge, Tiruchirappalli, which was returned on the ground of maintainability on 04.11.2024, and only thereafter was the present Criminal Original Petition filed.

7. Even a glance at the dates narrated by the learned counsel for the petitioner makes it clear that, even after the rejection of the revision by the learned Sessions Judge, Tiruchirappalli, on 04.11.2024, the petitioner did not



CrI.O.P.(MD)No.3979 of 2026

approach this Court immediately. As rightly observed by the trial Court, such delay cannot constitute a ground for seeking the recall and further examination of witnesses.

8. However, considering the fact that their cross-examination is essential for a fair adjudication of the case, this Court is inclined, in the interest of justice, to set aside the order passed by the learned Judicial Magistrate No.I, Tiruchirapalli in Cr.M.P.No.26862 of 2022 in CC No.218 of 2020 dated 20.07.2023. Accordingly, the order passed by the learned Judicial Magistrate No.I, Tiruchirapalli in Cr.M.P.No.26862 of 2022 in CC No.218 of 2020 dated 20.07.2023. is set aside. This Criminal Original Petition is allowed with the following directions:-

i. The petitioner shall file an application along with a batta of Rs. 10,000/-, which has to be paid to the witnesses PW1 to PW4 at Rs.2,500/- each. The petitioner is further directed to pay a cost of Rs.5,000/- (Rupees Five Thousand only) for establishing an E-Library to the credit of the MBHAA, in Indian Bank, Madurai Bench of Madras High Court Branch, Account No. 496038755 IFSC No.IDIB000H040, MICR Code: 625019020, within a period of two weeks from the date of receipt of a copy of this order.

ii. On such application along with the payment, the trial Court is directed



CrI.O.P.(MD)No.3979 of 2026

to entertain the application and fix a specific date for cross-examination of all the witnesses in a single day, after considering the convenience of the witnesses as well as the counsel for the petitioner.

iii. The petitioner has to cross examine the witnesses on the day specified by the learned Judge, without fail.

iv. In the event, if this petitioner fails to cross examine the witnesses on the date specified by the learned Judge, no further opportunity would be provided to him.

Consequently, connected Miscellaneous petition is closed.

24.02.2026

NCC : Yes / No
Index : Yes / No
Sm



CrI.O.P.(MD)No.3979 of 2026

L.VICTORIA GOWRI, J.

Sm

TO:-

1. The Judicial Magistrate No.I, Tiruchirapalli.
2. The Inspector of Police,
Traffic North Police Station,
Trichy City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Order made in
CrI.O.P.(MD)No.3979 of 2026

Dated
24.02.2026