



WEB COPY

CRL OP No. 16207 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-06-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 16207 of 2026

AND

CRL MP NO. 10671 OF 2026

Ashok Kumar
S/o.Jayapal,
No.24, Bangalow Street,
Shevapet, Salem - 636 002.

..Petitioner(s)

Vs

The State of Tamil Nadu
Rep.by, The Inspector of Police,
Shevapet Police Station,
Salem City Police.
(Crime No.84 of 2022)

..Respondent(s)

Prayer: Criminal Original Petition filed under Section 528 of BNSS, praying to set aside the order dated 06.04.2026 passed in CrI.M.P.No.3284 of 2025 in C.C.No.923 of 2022 on the file of the learned Judicial Magistrate No.III, Salem.

For Petitioner(s): Mr.S.Sathish

For Respondent(s): Mr.A.Amarnath
Government Advocate (Crl. Side)

ORDER

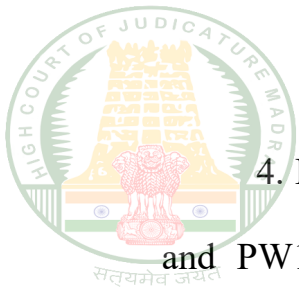
The petitioner, who is facing trial in C.C.No.923 of 2022 for offence under Sections 294(b), 323, 324 and 506(ii) of I.P.C. had filed a petition under Section 311 of Cr.P.C. in CrI.M.P.No.3284 of 2025 to recall PW1 for cross-



examination. The trial Court, by order dated 06.04.2026, dismissed the said petition on the ground that the petitioner had not taken any steps to cross-examine PW1 for nearly two years and now the petition had been filed only with the intention of protracting the proceedings and relying upon the decisions of Hon'ble Apex Court, the trial Court dismissed the petition, against which, the present petition is filed.

2. The contention of the petitioner is that PW1 is none other than the brother of petitioner. The petitioner is said to have abused, threatened and assaulted his brother. The only witness to the occurrence is PW1 and he is the prime witness in this case and the petitioner has been falsely implicated due to property dispute between them. Hence, recall of PW1 is necessary to defend the petitioner's case. He further submitted that the other witnesses already cross-examined by the petitioner and the case is now posted for examination of Investigating Officer.

3. The learned Government Advocate (Criminal Side) submitted that PW1 is the brother of petitioner. There exists some property dispute between them. Except PW1, all the other witnesses cross-examined. There is some delay and the case is now posted for examination of Investigating Officer.



4. Finding that PW1 is the primary witness in this case and the petitioner and PW1 are siblings and there is civil dispute between them, the cross examination of PW1 by the petitioner to put forth his defence, is necessary. In view of the same, the impugned order dated 06.04.2026 passed by the learned Judicial Magistrate No.III, Salem in Crl.M.P.No.3284 of 2025 in C.C.No.923 of 2022 is set aside. The trial Court shall recall the witness, namely, PW1 for the purpose of cross-examination, on payment of cost of Rs.5,000/- by the petitioner.

5. With the above direction, the Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

25-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
RSI

To

1. The Judicial Magistrate No.III,
Salem

2. The Inspector of Police,
Shevapet Police Station,
Salem City Police.

3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR J.

RSI

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