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Crl.O.P.(MD).No.11297 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

Crl.O.P(MD)No.11297 of 2026

and

Crl.M.P(MD) No.11319 of 2026

1. Leema

2. Rathika

... Petitioners/Accused 3 and 4

Vs

State of Tamil Nadu,
Represented by
The Inspector of Police,
Manavalakurichi Police Station,
Kanyakumari District.

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS Act, to call for the records relating to the order dated 16.03.2026 made in M.P.No.03 of 2026 in C.C.No.129 of 2020 on the file of the learned Judicial Magistrate, Eraniel, Kanyakumari District, set aside the same and pass such further or other orders as this Court.

For Petitioners

: Mr.R.Russel Raj

For Respondent

: Mr.B.Arun

Counsel for State of TN(Crl.Side)



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ORDER

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The present petition has been filed by A3 and A4 in C.C.No.129 of 2020, on the file of the learned Judicial Magistrate, Eraniel, Kanyakumari District, seeking to set aside the order passed by the Court in M.P.No.03 of 2026, on 16.03.2026.

2. A perusal of the records reveal that the petitioners herein are charged with the offence under Sections 409 and 420 of IPC.

3. The complaint was lodged by the Deputy Regional Manager of Kosamattam Finance Company and he was arrayed as L.W.1. According to the prosecution, now he is working abroad and they find it difficult to secure him to give evidence. The L.W.1 has given authorization to another person, namely, Vijay Anand, who is working as the Assistant Regional Manager of the Kosamattam Finance Company to conduct the case on behalf of LW.1. Based upon the authorisation letter, an application was filed under Section 311 of Cr.P.C by the prosecution to substitute LW.1 and to examine Mr.Vijay Anand in his place as LW.1. This application was allowed by the trial Court.



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Challenging the same, the present petition has been filed.

4. According to the learned counsel appearing for the petitioners, the present witness Vijay Anand does not have any personal knowledge about the happenings and therefore, he cannot be permitted to substitute in the place of LW.1. He further submits that the authorization given by original L.W.1 in favour of Mr.Vijay Anand is not legally sustainable and therefore, Mr.Vijay Anand cannot substitute LW.1.

5. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. As far as the contention of the petitioner that LW.1 cannot be substituted by Mr.Vijay Anand is concerned, since the complaint was lodged on behalf of the Finance Company by LW.1 and now LW1 is working abroad, LW1 can very well be substituted by another employee of the finance company. In case, if the present LW.1 does not have any personal knowledge, it is always open to the petitioner to cross examine him on the said point. The petitioner is also at liberty to cross examine him with regard to the authorization given by the original LW1.



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7. With the above said observation, this Court is of the considered opinion that there are no merits in this petition. Accordingly, this Criminal Original Petition is dismissed. Consequently connected Miscellaneous Peititon is closed.

16.06.2026

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

1. The Judicial Magistrate,
Eraniel, Kanyakumari District.
2. The Inspector of Police,
Manavalakurichi Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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