



Crl.OP(MD).No.13599 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 08.07.2026

ORDER PRONOUNCED ON : 13.07.2026

CORAM

THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.13599 of 2026

and

Crl.M.P(MD)No.13264 of 2026

1.Gopal

2.Jeyaram

....Petitioners/Accused Nos.2 & 12

Vs

State Rep.by
The Inspector of Police
Idol Theft Prevention Wing
Chennai District
Crime No.3 of 2012

.....Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to set aside the order in Crl.M.P.No.2374 of 2026 in C.C.No.1176 of 2025 dated 10.06.2026 passed by the Additional Chief Judicial Magistrate Court, Madurai and direct the trial Court to recall the Prosecution Witness No.1 for cross examination.

For Petitioners

: M/s.R.Bharathi

For Respondent

: Mr.P.Samuel Gunasingh
Government Advocate(Crl.side)



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ORDER

The present petition has been filed by Accused Nos.2 and 12 in C.C.No.1176 of 2025 on the file of the Additional Chief Judicial Magistrate Court, Madurai seeking to set aside the order passed in an application filed under Section 348 of BNSS, 2023.

2.A perusal of the records reveals that the petitioners herein are charged with the offence under Sections 457(2), 380(2) and 414 of I.P.C. PW1 was chief examined on 09.01.2017 and he was not cross examined on the said date. Thereafter, the petitioners herein have filed an application under Section 311 of Cr.P.C and the same was allowed. PW1 had appeared again on 16.06.2025. Even on the said date, he was not cross examined and hence the cross examination was closed by the trial Court on the said date. Thereafter, the present application has been filed on 23.02.2026 to recall PW1 for cross examination. This application has been dismissed by the trial Court on the ground that no reasons have been assigned for recalling after such a delay. This application is put to challenge in the present petition.

3.According to the learned counsel appearing for the petitioners, on 16.06.2025, due to Advocate boycott, PW1 cannot be cross examined. Therefore, the present application has been filed seeking to recall PW1 who is none other than the Village Administrative Officer who is shown as



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mahazer witness. Therefore, she prayed for granting one more opportunity to the petitioners to cross examine PW1.

4.Per contra, the learned Government Advocate (Crl.side) appearing for the respondent police submitted that the first application filed under Section 311 Cr.P.C was allowed, but the opportunity was not utilized. Suppressing the said fact, the present application has been filed for the second time. However, no reasons have been assigned for the delay and therefore, he prayed for dismissal of the petition.

5.Heard the learned counsel appearing on either side and perused the material records.

6.It could be seen from the records that PW1 was chief examined on 09.01.2017 and for the next 8 years, he was not cross examined. After 8 years, an application came to be filed to recall PW1 and the same was allowed. PW1 had appeared for cross examination on 16.06.2025 and he was not cross examined on the said date also. However, this fact is not reflected in the application filed under Section 311 of Cr.P.C. Thereafter, the present application has been filed on 23.02.2026 again to recall PW1. This application does not reflect that a chance was given to the petitioners by recalling PW1 and PW1 had appeared on 16.06.2025 and the said chance has not been utilized by the petitioners.



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7. According to the petitioners, due to Advocate boycott, on 16.06.2025

the petitioners could not cross examine PW1. However, the present application has been filed only on 23.02.2026 namely after 8 months. It is not the case of the petitioners that there was a boycott for a period of 8 months. In such circumstances, it is clear that the present application has been filed only to drag on the proceedings without any intention to cross examine PW1.

8. In such view of the matter, this Court does not find any error in the order passed by the trial Court. There are no merits in this petition. This Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

13.07.2026.

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



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To

1. Additional Chief Judicial Magistrate, Madurai

2. The Inspector of Police
Idol Theft Prevention Wing
Chennai District
Crime No.3 of 2012

3. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai



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R.VIJAYAKUMAR, J.

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