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Crl.O.P.(MD).No.17516 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2026

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

Crl.O.P(MD)No.17516 of 2026

and

Crl.M.P(MD) No.16892 of 2026

1. D.Vijaykumar
2. K.Thilan
Shanmugam (A4 Died)

... Petitioners/
Accused No.2 &3

Vs

State Represented by
The Inspector of Police,
Kodaikanal Police Station,
Kodaikanal.

... Respondent/
Prosecution

PRAYER : Criminal Original Petition is filed under Section 528 of BNSS, 2023, to set aside the order dated 23.07.2026 in Crl.M.P.No.313 of 2022 in C.C.No.53 of 2023 on the file of the learned Judicial Magistrate No.II, Kodaikanal and pass such further or other orders as this Court may deem fit.

For Petitioners : Mr.K.Gokul

For Respondent : Mr.B.Arun
Government Advocate (Crl.Side)



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ORDER

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The present petition has been filed by A2 and A3 in C.C.No.53 of 2023 on the file of the learned Judicial Magistrate No.II, Kodaikanal, seeking to set aside the condition imposed in Crl.M.P.No.313 of 2012 while allowing the said application.

2. It could be seen from the records that the petitioners had filed an application under Section 311 of Cr.P.C in Crl.M.P.No.313 of 2022 seeking to recall P.W.1 to P.W.11 for the purpose of cross examination. This application came to be allowed by the Court on 23.07.2026. However, condition has been imposed that the petitioners shall jointly pay cost at the rate of Rs.1,000/- (Rupees One Thousand only) to each one of the witnesses before the commencement of the cross examination. This condition is put to challenge in the present petition.

3. According to the learned counsel appearing for the petitioners, the accused persons and the defacto complaint are relatives and the petitioners herein are coolie workers and therefore, they would not be in a position to deposit the cost imposed by the Court and he seeks to set aside the said order.



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4. Heard the learned counsel appearing for the petitioners and perused the materials available on record.

5. As it could be seen from the records, a sum of Rs.11,000/- has been imposed as against the petitioners herein as a condition precedent for recalling P.W.1 to P.W.11. The cost seems to be onerous. However, considering the delay on the part of the petitioners, the Court has imposed such a cost. In such an event, this Court is inclined to set aside the clause one of the order imposing a condition to deposit a sum of Rs.1,000/- (Rupees One Thousand only) to each one of the witnesses before the commencement of the cross examination. In all other aspects the order stands confirmed.

6. With the above said observation, this Criminal Original Petition is partly allowed to the extent as stated above. Consequently connected Miscellaneous Petition is closed.

13.08.2026

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

1. The Judicial Magistrate No.II,
Kodaikanal.
2. The Inspector of Police,
Kodaikanal Police Station,
Kodaikanal.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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