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*Crl.O.P.No.4102 of 2025*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.4102 of 2025  
and Crl.M.P.No.2614 of 2025

Gajendran

... Petitioner

Vs.

The State rep. by  
The Inspector of Police,  
Special Investigation Cell,  
Vigilance and Anti-Corruption,  
Chennai.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, to set aside the order dated 24.01.2025 passed in Crl.M.P.No.748 of 2024 in C.C.No.1 of 2018 on the file of the Special Court for the Cases under Prevention of Corruption Act, Chennai-104.

For Petitioners : Mr.S.janarthanam

For Respondent : Mr.S.udayakumar  
Government Advocate (Crl. Side)



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### ORDER

The petitioner/accused facing trial in C.C.No.1 of 2018 filed a petition under Section 311 Cr.P.C. in Crl.M.P.No.748 of 2024 to recall P.W.9 for further cross examination. The Lower Court dismissed the said petition. Against which, the present petition is filed.

2.The contention of the learned counsel for the petitioner is that in this case P.W.4 is the accompanying witness and when a question was raised with regard to the credibility of the accompanying witness, P.W.10/Investigating Officer answered that P.W.9/Trap Laying Officer will only be aware about all the particulars and further when a question was put to P.W.10 with regard to the presence of other witnesses immediately prior and after the trap in the scene of occurrence, he answered that it is only P.W.9 will be the appropriate person to answer the same. In view of the above, it has become imperative to recall P.W.9 to put few questions otherwise the petitioner would be greatly prejudiced. Hence, prayed for setting aside the impugned order.



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3.The learned Government Advocate (Crl. Side) strongly opposed the petitioner's contention stating that now the case is at the stage of arguments and filing the present petition at this stage would only further protract the proceedings. In this case, on the side of the prosecution P.W.1 to P.W.12 examined, Ex.P1 to Ex.P26 marked and M.O.1 to M.O.5 produced. P.W.9/Trap Laying Officer was examined on 18.11.2022, he was cross examined in detail on 10.07.2023 and on 23.08.2023. P.W.10/Investigating Officer was examined in chief on 01.02.2024 and cross examined on three occasions i.e. on 12.04.2024, 23.04.2024 and 26.11.2024. The petitioner having kept quite for considerable period, now filing the present petition at the final stage only to drag the proceedings. Hence, prayed for dismissal.

4.The learned counsel for the petitioner submitted that one last opportunity may be given to the petitioner to cross examine P.W.9/Trap Laying Officer to put forth his defence. He further submitted that today [18.02.2025] the case is posted before the Trial Court and the petitioner filed a petition under Section 243(2) Cr.P.C. to examine one of the witness on defence side.

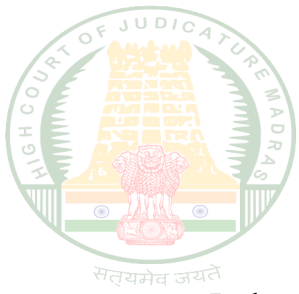


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5.Considering the submissions made and on perusal of the materials, it is seen that in this case, the petitioner requires to examine P.W.9/Trap Laying Officer to put forth some questions with regard to the accompanying witness and with regard to the trap proceedings taken place in the office of the petitioner. It is seen that P.W.9 would be the right person to answer these questions. In view of the same, this Court is of the view that further cross examination of P.W.9 would be required.

6.In view of the above, the impugned order passed by the learned Special Judge, Special Court for the Cases under Prevention of Corruption Act, Chennai. in Crl.M.P.No.748 of 2024 dated 24.01.2025 is set aside. It is made clear that the petitioner to cross examine P.W.9 on the day of his appearance without seeking any adjournment and in the event of the petitioner seeking any further adjournment, the Trial Court to proceed with the trial.

7.Accordingly, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.



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18.02.2025

Index: Yes/No  
Speaking Order/Non-Speaking Order,  
Neutral Citation: Yes/No  
*cse*  
***Note: Issue order copy on 19.02.2025***

To

- 1.The Inspector of Police,  
Special Investigation Cell,  
Vigilance and Anti-Corruption,  
Chennai.
- 2.The Special Judge,  
Special Court for the Cases under  
Prevention of Corruption Act,  
Chennai.
- 3.The Public Prosecutor,  
High Court, Madras.



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M.NIRMAL KUMAR, J.  
*cse*

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