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Crl.O.P.No.6326 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2025

CORAM:

**THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR**

**Crl.O.P.No.6326 of 2025**

**and**

**Crl.M.P.No.4042 of 2025**

C.Kalai Selvan

... Petitioner

Versus

State of Tamilnadu,  
Rep. by The Inspector of Police,  
Special Investigation Cell,  
Vigilance and Anti-corruption,  
Chennai.

... Respondent

**PRAYER:** Criminal Original Petition filed under Section 528 of BNSS, praying to set aside the order passed by the learned Special Court for trial of cases under the Prevention of Corruption Act Chennai dated 19.02.2025 made in Crl.M.P.No.738 of 2024 in C.C.No.5 of 2015 and allow this Criminal Original Petition.

For Petitioner : Mr.B.Kumarasamy

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



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## **ORDER**

The petitioner/accused, who is facing trial in C.C.No.5 of 2015 had filed a petition in CrI.M.P.No.738 of 2024 under Section 311 of Cr.P.C. seeking to recall of the witnesses viz., PW1, PW2, PW3, PW12, PW17 and PW18 before the Special Court for Cases under the Prevention of Corruption Act. The Court below by its order dated 19.02.2025 dismissed the same on the ground that the reasons given by the petitioner is not acceptable, against which this Criminal Original Petition is filed by the petitioner.

2. When the matter is taken up for hearing, the learned counsel appearing for the petitioner submitted that though the petitioner had filed the present petition seeking to set aside the order dated 19.02.2025 passed by the trial court and to recall 6 witnesses, he is confining his prayer with regard to cross examination of P.W.18 -Investigating Officer alone.

3. The reason given by the learned counsel for the petitioner is that when the petitioner was questioned under Section 311 of Cr.P.C., the petitioner filed a petition to recall P.W.4, P.W.6 and P.W.7 on 01.12.2023 and the trial court allowed the said petition, pursuant to which the witnesses were recalled and cross examined. There was some delay in producing the

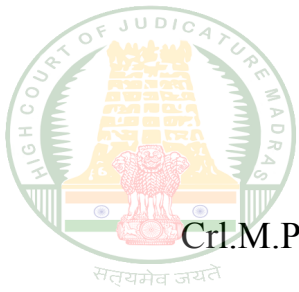


witnesses and the evidence was completed on 20.11.2024 and on the same date another petition under Section 311 Cr.P.C.was filed on 20.11.2024.

There is no delay on the part of the petitioner. The cross examination of the investigating officer is necessary since P.W.4, P.W.6 and P.W.7 during cross examination had given some contradictory statements which has to be necessarily put to the investigating officer to confirm the contradiction and the same need to be considered otherwise the petitioner losses his valuable right of cross examination.

4. He further submitted that the petitioner is facing trial for offences under Prevention of Corruption Act 1988 and it is the duty of the petitioner to probabalise his defence and this can only be done by way of cross examination of P.W.18- Investigating Officer.

5. The learned Government Advocate (Crl.side) submitted that the petitioner is delaying the proceedings by filing one petition or the other. Further, he would submit that initially the petitioner filed a petition to recall PW4, PW6 and PW7 on 01.12.2023. Thereafter, the petitioner had delayed the cross examination and this process had gone upto 20.11.2024. Immediately thereafter, on the same day the present petition viz.,



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Crl.M.P.No.738 of 2024 came to be filed only to drag on the proceedings.

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6. Heard both sides. Perused the records.

7. The case pending for more than 10 years. The trial Court has rightly dismissed the petition filed to recall P.W.1, P.W.2, P.W.3, P.W.12, P.W.17 and P.W.18 and the case is posted for arguments on 11.03.2025. The petitioner has now confined his relief with respect to cross examination of P.W.18 alone for the reason that contradictions which had been elicited by P.W.4, P.W.6, P.W.7 has to be necessarily put to the investigating officer to confirm the same and bring on record. It is ascertained by the learned Government Advocate (Crl.side) that the P.W.-18- investigating officer is available on 11.03.2025 and ready to appear before the trial Court on 11.03.2025.

8. Considering the same, this Court set aside the order dated 19.02.2025 passed by the learned Special Court for Trial in Crl.M.P.No.738 of 2024 to the extent of recalling of P.W.18 alone. P.W.18- investigating officer is directed to appear before the trial Court on **11.03.2025**. The petitioner is directed to cross examine the said witness on the same day without any delay. Thereafter, the trial court shall proceed with the



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arguments and decide the case on merits.

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9.In the result, this criminal original petition is partly allowed.

Consequently, connected Miscellaneous Petition is closed.

07.03.2025

Index : Yes/No

Internet : Yes/No

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**Note:** Issue order copy on 10.03.2025

To

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

**M.NIRMAL KUMAR, J**

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