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CRL OP No. 17007 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2025

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.17007 of 2025

and

Crl.M.P.No.10652 of 2025

P.Senthil Kumar

... Petitioner/A2

Versus

State Rep. by
The Inspector of Police,
SPE/EOW/CBI,
Rajaji Bhavan,
Chennai.
R.C.11/E/2008.

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of BNSS, praying to set aside the docket order dated 05.05.2025 dispensing the LW.5 and LW.6 by the Additional Public Prosecutor and consequently to direct the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai to examine the approvers LW.5 – R.Vinothkumar, S/o.D.Rajendran and LW.6- M.Vinothkumar, S/o.C.Mohan as prosecution witnesses by securing them by all means in accordance with law i.e by complying with the mandatory provisions as per Section 306 of the Criminal Procedure Code, 1973, in C.C. No.5127 of 2009 pending on the file of the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, against the petitioner.



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For Petitioner : Ms.G.Ramadhevi

For Respondent : Mr.B.Mohan
Special Public Prosecutor (CBI Cases)

ORDER

The petitioner/accused, who is facing trial in C.C.No.5127 of 2009, filed a petition in Crl.M.P.No.5474 of 2025 seeking to summon LW5 and LW6, the approvers in this case and examine them as witnesses. The trial Court, by an order dated 25.04.2025 allowed the petition and directed LW5 and LW6 to be examined as witnesses. On 05.05.2025, the respondent police filed a memo submitting that LW5 and LW6 could not be traced. Accepting the memo, on 05.05.2025, the trial Court in the adjudication recorded that LW5 and LW6 are not residing in the address mentioned in the list of witnesses and in this regard a certificate issued by Tahsildar is filed by the Inspector of Police, CBI/EOW/Chennai along with memo. Hence, LW5 and LW6 were dispensed with. Aggrieved against the said order, the present petition is filed.

2.The learned counsel for the petitioner submitted that there are 28 witnesses examined in this case and all the witnesses were cross examined.



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In this case there are totally 7 approvers. The prosecution itself proceeds on the case against the petitioner on imagination and without any sufficient materials. For that reason, they have taken 7 persons as approvers and targeted the petitioner. The petitioner has been projected as though he arranged fictitious borrowers and with the help of co-accused, had taken loan from the bank using forged documents. In defence, the petitioner requires to cross examine LW5 and LW6 in detail. Hence, he filed a petition before the trial Court in Crl.M.P.No.5474 of 2025. The trial Court, by the order dated 25.04.2025, finding reason in the petitioner's submission, though LW5 and LW6 were dispensed by the trial Court earlier on 25.09.2019, ordered fresh summons to LW5 and LW6 for examination. Thereafter, within a period of ten days, a memo was filed by the CBI stating that LW5 and LW6 are not traceable.

3. According to the petitioner, the information was that LW5 and LW6 are very much available and the respondent without proper enquiry filed a memo thereby, denying the petitioner's chance of cross examining these witnesses to put forth his defence.



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4.The learned Special Public Prosecutor appearing for the respondent submitted that in this case there are five accused. The petitioner is arrayed as A2. The petitioner, Managing Director of A1-Company taking the service of brokers availed loan with fraudulent, dishonest intention and cheated the bank. He produced forged salary certificate, identity proof while availing the loan. On the complaint of the bank, case registered, investigation completed, charge sheet filed. In this case, the examination of all witnesses completed on 27.11.2024 and questioning under Section 313 Cr.P.C. of the accused completed on 10.12.2024. Thereafter, on 10.12.2024 they filed a petition to examine defence witnesses. DW1 to DW3 examined and the defence witness closed on 10.01.2025. Thereafter to further protract the proceedings, the petition has been filed to examine LW5 and LW6 on 24.04.2025 and on the same day, the order has been passed.

5.He further submitted that the respondent had taken all earnest steps to locate LW5 and LW6. Finding that the petition was filed belatedly just to protract the proceedings, a memo was filed on 05.05.2025. This memo is supported with the report obtained from the Tahsildar. Thereafter summons to LW5 and LW6 dispensed with and the case is posted for further



proceedings. At this stage, the petitioner approached this Court and stalled the trial before the trial Court.

6.He further submitted that on the directions of this Court again steps were taken and now LW5 and LW6 located. LW5 is R.Vinoth Kumar and LW6 is M.Vinoth Kumar. He confirmed that LW5 died on 10.12.2024 and the Death Certificate produced. With regard to LW6/M.Vinoth Kumar, he submitted that he suffered a stroke, took treatment in Sundaram Medical Foundation and he is under constant medication and care. The prosecution has got no objection to examine LW6. His only plea is that in the guise of examination, LW6 not to be harassed and trial should not be protracted further. He further submitted that on a given date LW6 can be produced before the trial Court with medical care and on the same day the examination and cross examination of LW6 to be completed.

7.The learned counsel for petitioner, on instructions, submitted that on 11.11.2025 LW6 can be examined as witness, on the same day, they will complete the cross examination. She further submitted that the case is posted before the trial Court on 01.11.2025 for arguments.



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8.The learned Special Public Prosecutor submitted that he would inform about the progress of the case as on date and ensure that arguments can be had after 11.11.2025.

9.It is seen that the case is of the year 2008 and almost 17 years have lapsed. In view of the same, the trial Court to see that the case reaches its logical end before 31.12.2025.

10.With the above observations and directions, the Criminal Original Petition is disposed of. Consequently, the connected Criminal Miscellaneous Petition is closed.

31.10.2025

Index : Yes/No
Internet : Yes/No
Speaking order/Non-speaking order
Neutral Citation: Yes/No
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Note: Issue order copy on 31.10.2025.



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To

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1. The Additional Chief Metropolitan Magistrate,
Egmore, Chennai.
2. The Inspector of Police,
SPE/EOW/CBI,
Rajaji Bhavan,
Chennai.
3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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