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CrI.O.P.No.17179 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.17179 of 2025

1.Purushothaman

2. Prabhu

... Petitioners

Vs.

State rep. by

The Inspector of Police

Coonoor Town Police Station

Coonoor, The Nilgiris District

(Crime No.335 of 2018)

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of BNSS, 2023 to set aside the order dismissing the petition preferred under Section 348 of B.N.S.S. to recall P.W.1, P.W.3, P.W.6, P.W.9 and P.W.11 in C.M.P.No.775 of 2025 in C.C.No.45 of 2019 on the file of Judicial Magistrate, Coonoor by his order dated 25.04.2025.

For Petitioners

: Mr.V.Chinnasamy

For Respondent

: Dr.C.E.Pratap

Government Advocate (CrI. Side)



Cr.O.P.No.17179 of 2025

ORDER

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This Criminal Original Petition has been filed by the petitioners to set aside the order passed by the Judicial Magistrate, Coonoor, dated 25.04.2025 whereby dismissing the petition preferred under Section 348 of B.N.S.S. to recall P.W.1, P.W.3, P.W.6, P.W.9 and P.W.11 in C.M.P.No.775 of 2025 in C.C.No.45 of 2019.

2. The learned counsel for the petitioners submitted that the petitioners are facing trial in C.C.No.45 of 2019 on the file of the Judicial Magistrate, Coonoor for the offence under Section 408 IPC. At the time of examination of the prosecution witnesses namely P.W.1, P.W.3, P.W.6, P.W.9 and P.W.11, they were partly cross examined by the petitioners. The said witnesses are key witnesses and in order to further cross examine the said witnesses regarding some vital points, the petitioner filed a petition in C.M.P.No.775 of 2025 under Section 311 of Cr.P.C. (Section 348 of B.N.S.S.) to recall the said witnesses. But the learned Magistrate without considering the same, dismissed the



CrI.O.P.No.17179 of 2025

petition by order dated 25.04.2025. Hence, challenging the same, the present

WEB COPY

petition is filed.

3. Heard both sides and perused the materials available on record.

4. A perusal of records shows that the C.C. is of the year 2019. P.W.1 was examined in the year 2019 itself and the petitioner had not taken any steps for further cross examination of P.W.1 for the past five years. Thereafter, the other witnesses have been examined recently in the year 2024 and 2025 and the petitioners have also cross examined them. Therefore, the learned Magistrate has rightly dismissed the petition filed by the petitioners. However, in order to give one more opportunity to the petitioners, the order passed by the Judicial Magistrate, Coonoor in C.M.P.No.775 of 2025 dated 25.04.2025 is set aside.

5. Accordingly, the petitioners are permitted to cross examine the witnesses namely P.W.1, P.W.3, P.W.6, P.W.9 and P.W.11 on payment of cost of Rs.5,000/- to each of the witnesses (In total Rs.25,000/-). The petitioners are



Crl.O.P.No.17179 of 2025

directed to deposit the said amount before the trial Court on or before

20.06.2025. On such deposit, the learned Magistrate is directed to issue summons to the said witnesses fixing a date for cross examination.

6. The petitioners are directed to cross examine the said witnesses on the same day of their appearance. Failing which, the trial Court is directed to proceed with the trial in accordance with law and the petitioners will not be permitted to file another petition to recall the said witness.

7. With the above directions, this Criminal Original Petition is disposed of.

13.06.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

ksa-2

Note: Issue order copy on 16.06.2025.



CrI.O.P.No.17179 of 2025

To

1. The Judicial Magistrate,
Coonoor

2. The Inspector of Police
Coonoor Town Police Station
Coonoor, The Nilgiris District

3. The Public Prosecutor
High Court of Madras, Chennai



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CrI.O.P.No.17179 of 2025

P.VELMURUGAN. J.

Ksa-2

CrI.O.P.No.17179 of 2025

13.06.2025