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Crl.O.P.No.18304 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2025

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.18304 of 2025

1. Ponnuvel @ Thambidurai
 2. Saravanan
 3. Sarath Kumar
- ... Petitioners

Vs.

State Represented by
Inspector of Police,
B3, Kanchi Taluk Police Station,
Kancheepuram.

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 BNSS, 2023, to call for the records in C.C.No.69 of 2014 on the file of the Judicial Magistrate No.II, Kancheepuram and set aside the order dated 10.06.2025 dismissing the order passed in Crl.M.P.No.1273 of 2024.

For Petitioners	: Mr.K.Balasubramaniam
For Respondent	: Mr.S.Vinoth Kumar Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition has been filed to call for the records in C.C.No.69 of 2014 on the file of the Judicial Magistrate No.II, Kancheepuram and set aside the order dated 10.06.2025 in Crl.M.P.No.1273 of 2024.

2. It is seen that the petitioners are facing trial in C.C.No.69 of 2014 for the offences under Sections 498(A) and 306 IPC before the learned Judicial Magistrate – II, Kancheepuram. On the side of the prosecution totally 13 witnesses examined and chief and cross examination of both sides has got over on 05.09.2024 itself. After questioning the accused under Section 313 Cr.P.C., regarding incriminating evidence, the case is posted for arguments, at that stage, the petitioner filed the petition in Crl.M.P.No.1273 of 2024 to re-call P.W.1, P.W.8 and P.W.10 for cross examination. The trial Court consider the petition and dismissed it assigning reason on 10.06.2025. Assailing the order of the Court below, the present petition is filed by the petitioners/accused invoking Section 538 BNSS, 2023.



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3. Learned counsel for the petitioners submitted that some important questions were left out during the cross-examination of P.W.1, P.W.8 and P.W.10 and that the petitioners filed re-call petition, but the trial Court without assigning any reason simply dismissed the petition. Learned counsel further submitted that the petitioners ought to have cross-examine those witnesses for the purpose of establishing their defence.

4. Learned Government Advocate (Crl.Side) appearing for the respondent-Police submitted that cross-examination of P.W.1 was completed on 05.11.2020 and P.W.8 and P.W.10 were cross-examined twice. The petition to re-call was filed without assigning any specific reason. He further submitted that in order to protract the case, the petitioners filed the petition and the learned Magistrate had elaborately discussed about assigning justifiable reason for dismissing the petition.

5. This Court on perusing the impugned order finds that inspite of affording opportunity, the petitioners have not availed that opportunity. After completion of examination of prosecution witnesses, they have



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taken out the petition to recall P.W.1, P.W.8 and P.W.10. The very nature of the petitions itself clearly indicates that a case which is pending from the year 2014 sought to be delayed further by filing petition after petition to re-call the witnesses time and again. Hence, the trial Court has rightly dismissed the petition. This Court finds no valid reason to interfere with the order of trial Court. Hence, this Criminal Original Petition is dismissed.

01.07.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

1. The Judicial Magistrate No.II,
Kancheepuram.
2. The Inspector of Police,
B3, Kanchi Taluk Police Station,
Kancheepuram.
3. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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