



Crl.O.P.No.21058 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.No.21058 of 2025

Samiyappan

... Petitioner

Vs.

Nachiyappan (died)

1.Kannadimani @ Ramasamy

2.Paramasivam

3.Sivalingam

4.Sivasankari

... Respondents

Prayer : Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita to set aside the order passed in Crl.M.P.No.3115 of 2024 dated 20.01.2025 in C.C.No.9 of 2020 pending on the file of the District Munsif-cum-Judicial Magistrate, Madathukulam.

For Petitioner : Mr.M.N.Balakrishnan

For R4 : Ms.R.Preethikaa
for Mr.R.Kannan

For R1 to R3 : No appearance



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ORDER

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Challenge has been made to the order of the learned District Munsif-cum-Judicial Magistrate, Maduthukulam, in Crl.M.P.No.3115 of 2024, dated 20.01.2025, dismissing the application filed by the petitioner under Section 311 Cr.P.C. to examine the additional witnesses, namely, Superintendent of Police and one Lakshmanan who is said to be the eye-witness to the alleged incident.

2.The petitioner has originally filed a private complaint under Section 200 Cr.P.C. as against the respondents 1 to 4 for the alleged trespass and stealing of coconuts. The complaint is stated to be filed in the year 2012. The said complaint has been taken on file originally in C.C.No.317 of 2012 on the file of the Chief Judicial Magistrate, Coimbatore. In the complaint, the petitioner has also given the list of witnesses on his side. After transfer of the case to the District Munsif-cum-Judicial Magistrate Court, Madathukulam and re-numbering as C.C.No.9 of 2020, the trial commenced on 08.04.2022 and P.W.1 was examined in chief and the matter was adjourned for cross-examination of P.W.1. Thereafter, P.W.1 was cross-examined on 21.11.2023. Once again, an application was filed by the



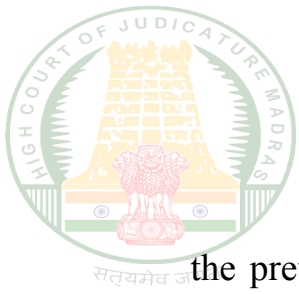
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petitioner under Section 311 Cr.P.C. for further examination of P.W.1.

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Accordingly, P.W.1 was further examined on 28.11.2023. Thereafter, once again, the petitioner filed an application under Section 311 Cr.P.C. in Crl.M.P.No.151 of 2024 for further examination of P.W.1. However, since the examination of P.W.1 was complete and documents were marked, the said application was dismissed by the trial Court. Once again, the petitioner has filed Crl.M.P.No.1150 of 2024 under Section 311 Cr.P.C. for further examination of P.W.1 and the said application has also been dismissed by the trial Court. At that stage, the petitioner has filed the present application under Section 311 Cr.P.C. to examine the Superintendent of Police and one Lakshmanan, in order to prove the alleged fact that he had already given the complaint, however, the same has not been received by the Superintendent of Police. The petitioner also wants to examine one Lakshmanan who is said to be the eye witness. The said application has been dismissed by the trial Court, challenging which, the present petition has been filed.

3.No doubt, the parties are entitled to recall or summon any of the witnesses if his/her evidence is relevant to prove their case. At the same time, one cannot take undue advantage by filing repeated applications under



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the pretext of examining the witnesses. The Calender Case is of the year 2012 and the alleged occurrence is said to have been taken place in the year 2012. It is seen that the cross-examination of P.W.1 has been completed on 28.11.2023. All these years, the petitioner has not taken any steps even to notify the proposed witnesses on his side. Now, he has come out with a theory claiming that one more eye-witness is available. This itself makes it clear that the very application is an afterthought after a lapse of 13 years. Hence, I do not find any merit in this petition.

4. Accordingly, this Criminal Original Petition is dismissed.

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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

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1. The District Munsif-cum-Judicial Magistrate,
Madathukulam.
2. The Public Prosecutor,
High Court, Madras.

N. SATHISH KUMAR, J.



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