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CRL OP No. 28993 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.28993 of 2025

1.Shamshad
2.A.Ayub Ali

... Petitioners / A1&A2

Versus

The State by
The Inspector of Police,
ALGSC, Vellore.

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of BNSS Act, praying to set aside the order dated 17.12.2024 made in C.M.P.No.12477 of 2024 in Spl.C.C.No.8 of 2014 on the file of the learned Chief Judicial Maistrate, Vellore now transferred and trial pending before the learned Principal District Court, Vellore in Spl.C.C.No.18 of 2025.

For Petitioners : Mr.Sathiyaraj.E

For Respondent : Mr.Leonard Arul Joseph Selvam,
Additional Public Prosecutor

ORDER



The petitioners, A1 and A2, in Spl.C.C. No. 8 of 2014 filed a petition under Section 311 Cr.P.C. seeking to recall P.W.1 to P.W.3. The said petition was dismissed on 17.12.2024, against which the present revision has been filed.

2. The learned counsel for the petitioners, at the outset, submitted that the petitioners are confining their request to the recall of P.W.3 alone and are giving up their request as regards P.W.1 and P.W.2.

3. He further submitted that P.W.1 is the sanctioning authority, P.W.2 is the decoy witness who not supported the case of the prosecution, and P.W.3 is the accompanying official witness. Earlier, the petitioners filed a recall petition for P.W.2, P.W.4, P.W.5, P.W.10, P.W.11, P.W.12, P.W.13, and P.W.14, which was dismissed by the Trial Court, against that order, petitioner filed Crl.O.P. No. 366 of 2025, and this Court permitted recall of P.W.4, P.W.5, P.W.10, P.W.11, P.W.12, P.W.13, and P.W.14. The petitioner recalled and cross-examined all these witnesses except P.W.12 and P.W.14, who are the T.L.O. and the Investigating Officer respectively.

4. The case is now posted for cross-examination on 01.12.2025. When the recall petition earlier filed, due to oversight, petitioners not included P.W.1 to P.W.3, now restrict the petition to recall P.W.3, the



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accompanying witness alone for cross-examination. The cross-examination of P.W.3 is necessary to contradict P.W.2, the decoy witness.

5. The learned Additional Public Prosecutor strongly opposed the petition, submitting that the occurrence and F.I.R. date back to 2013, after investigation, charge sheet filed in 2014. The trial commenced before the Chief Judicial Magistrate, Vellore, the petitioners failed to cross-examine the witnesses then all these by adopting dilatory tactics. On 11.07.2025, the case was transferred to the Principal District Judge, Vellore, now taken on file as C.C. No. 18 of 2025. There are total of 19 witnesses in this case; one witness dispensed with, and three no more. So far P.W.1 to P.W.14 examined. P.W.1 was examined and cross-examined on 29.06.2018, P.W.2 was examined in 2018, and P.W.3 examined on 07.01.2019. Thereafter, other witnesses examined. Now, the case is at the final stage. The petitioner by filing one petition or other protracting the proceedings. The case, which originated in 2013, is pending for nearly 12 years and yet to reach finality. Hence, he strongly opposed the petition.

6. Considering the submissions and upon perusal of the materials, it is seen that this Court, in Crl.O.P. No. 3665 of 2025 dated 20.02.2025, permitted recall of witnesses P.W.4, P.W.5, P.W.10, P.W.11, P.W.12, P.W.13, and P.W.14 for cross-examination, and directed to be completed by



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01.11.2025.

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7. It is seen that P.W.3, the accompanying witness, was not cross-examined. Since P.W.2, the decoy witness, not supported the case of the prosecution, the cross-examination of P.W.3 becomes necessary to clarify certain aspects as to put forth the defence, now P.W.3 evidence gain importance since he is the primary witness to speak about the Trap. P.W.3 is a public servant presently serving in Vellore District, and his presence can be secured without difficulty. The evidence is completed only after tested by cross-examination.

8. In view of the above, this Court is inclined to set aside the impugned order insofar as it relates to P.W.3 alone. The petitioners are permitted to recall P.W.3 and complete his cross-examination without further delay preferably within 2 weeks from the date of receipt of a copy of this order.

9. In the result, this Criminal Original Petition is allowed accordingly.



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Speaking order/Non-speaking order

Neutral Citation: Yes/No

To

1.The Chief Judicial Maistrate, Vellore.

2. The Principal District Court, Vellore

3.The Inspector of Police,
ALGSC, Vellore

4.The Public Prosecutor,
High Court, Madras.

Note: Issue order copy on 04.11.2025



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M.NIRMAL KUMAR, J.,

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