



CrI.O.P.No.24217 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2025

CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

CrI.O.P.No.24217 of 2025

K.Ramachandran

... Petitioner

Vs.

State represented by,
The Inspector of Police,
Bank Fraud Investigation Wing,
Alpha -1,
Vepery, Chennai.

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 Cr.P.C./528 of BNSS, to set aside the order in CrI.M.P.No.7603 of 2025 in C.C.No.434 of 2007 dated 17.06.2025 by the learned Additional CCB Metropolitan Magistrate, Egmore, Chennai, by allowing the recall PW1 for cross examination in C.C.No.434 of 2007 on the file of the learned Additional CCB Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.O.Ravi

For Respondent : Mr.R.Vinothraja
Government Advocate (Criminal Side)



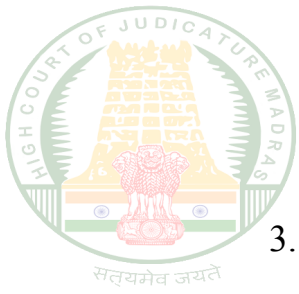
Crl.O.P.No.24217 of 2025

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ORDER

Challenging the order of the trial Court dated 17.06.2025, partly allowing the petition filed by the petitioner in Crl.M.P.No.7603 of 2025 in C.C.No.434 of 2007, under Section 311 Cr.P.C to recall PW1 & PW3 for the purpose of cross examination, the present Criminal Original Petition has been filed.

2. The petitioner has been arrayed as A1 in Crime No.645 of 2004, registered for the offences punishable under Sections 419, 420, 465, 468, 471 r/w 120(b) of IPC. After completion of investigation, a charge sheet was filed and taken cognizance in the year 2007 in C.C.No.2021 of 202C.C.No.434 of 2007 before the the Additional CCB Metropolitan Magistrate, Egmore, Chennai. In the said proceedings, the petitioner filed a petition in Crl.M.P.No.7603 of 2025 seeking to recall PW1 & PW3 for cross examination since they were not cross examined. The trial Court, vide order dated 17.06.2025, partly allowed the petition on payment of cost in respect of the witness PW3 and dismissed in respect of PW1. Against which, the present petition has been filed.



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3. It is the contention of the learned counsel for the petitioner that the PW1 is the complainant and his cross examination is a vital and substantial evidence. He further submitted that PW1 was never cross examined, thereby, the petitioner filed the petition under Section 311 Cr.P.C. However, the said petition was dismissed by the trial Court, hence, he prayed to set aside the same.

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

5. A perusal of the records shows that PW1 was examined in the year 2015 and he was 62 years old at that time. For the last ten years, he has not been cross examined and no attempt has been made on the side of the petitioner to do so. Therefore, this Court is of the view that a criminal trial cannot be at the mercy of the accused and the trial should be conducted as per rules and procedure. One cannot take undue advantage by seeking to recall a witness after a lapse of ten years.

6. In view of the above, this Court is of the opinion that if such petitions are entertained in a casual manner, it would make a mockery of the justice delivery system and amount to a violation of procedural discipline.



Crl.O.P.No.24217 of 2025

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03.09.2025

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Neutral Citation:Yes/No

To

1. The Additional CCB Metropolitan Magistrate,
Egmore, Chennai.
2. The Inspector of Police,
Bank Fraud Investigation Wing,
Alpha -1, Vepery, Chennai.
3. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.24217 of 2025

N. SATHISH KUMAR, J.

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Crl.O.P.No.24217 of 2025

03.09.2025