



CrI.O.P.No.24254 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.24254 of 2025
and CrI.M.P.No.16596 of 2025

1. Shivasankar
2. Srijevan

... Petitioners

Vs.

State represented by,
The Inspector of Police,
Q - Branch PS,
Coimbatore.

... Respondent

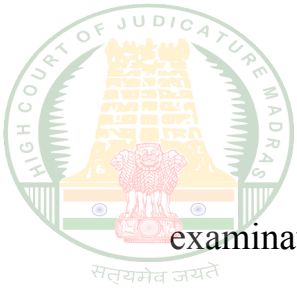
PRAYER : Criminal Original Petition is filed under Section 528 of BNSS, to set aside the order made in C.M.P.No.26 of 2025 dated 09.07.2025 in C.C.No.569 of 2025 on the file of the learned Judicial Magistrate, Coimbatore.

For Petitioners : Mr.G.Murugendran

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

ORDER

Challenging the order of the trial Court dated 09.07.2025 dismissing the petition filed by the petitioners in C.M.P.No.26 of 2025 under Section 311 Cr.P.C., to recall PW46 and PW52 for the purpose of cross



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examination, the present Criminal Original Petition has been filed.

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

3. The petitioners are arrayed as A1 and A2 for the offences punishable under Sections 120-B, 420, 465 and 109 IPC and Section 14(c) of the Foreigners Act. The case is now pending trial before the Judicial Magistrate Court No.II, Coimbatore, in C.C.No.569 of 2025. The petitioners filed a petition in C.M.P.No.26 of 2025 seeking to recall PW46 and PW 52 for cross examination. The trial Court dismissed the petition holding that the petitioners filed the application only to drag on the case. Hence, the present petition has been filed.

4. Though the trial Court has dismissed the application, the legal proceedings have reached such a stage without any sense of responsibility. The counsel who appeared for the accused to defend the serious charges treated the sessions trial lightly. Such conduct of the lawyers, in view of this Court, amounts to clear recklessness and invites disciplinary proceedings against them.

5. When a counsel is engaged to protect the interests of the

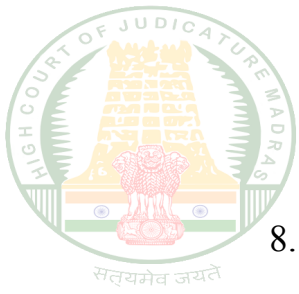


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accused, it is his duty to safeguard the interest of his client and to cross examine the witnesses. They cannot remain mute spectators, allowing the prosecution witnesses to depose without cross examination. Casually permitting the witnesses to be examined without even making an attempt to cross examine them, thereby, neglecting the interest of the accused, is unprofessional. Such conduct of the lawyers certainly warrants disciplinary action against them.

6. Taking note of the above facts and circumstances of the case and considering the nature of the charges against the petitioners, this Court is inclined to grant one more opportunity to the petitioners to cross examine PW46 and PW52 subject to payment of cost.

7. Accordingly, this Criminal Original Petition is allowed and the order passed by the learned Judicial Magistrate No.II, Coimbatore, in C.M.P.No.26 of 2025 in C.C.No.569 of 2025 dated 09.07.2025 is set aside. The petitioners are directed to deposit a sum of Rs.30,000/- (Rupees Thirty Thousand only) before the trial Court. On such deposit, the trial Court shall recall PW46 and PW52 and fix a date for their cross examination.



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8. It is made clear that the petitioners shall cross examine the said witnesses on the very same day of their appearance and in the event of the petitioners failing to cross examine the witnesses, the right of the petitioners to cross examine them shall be forfeited.

9. The trial Court shall disburse a sum of Rs.15,000/- to each of the witnesses, namely PW46 and PW52, on the date of their appearance. Consequently, the connected miscellaneous petition is closed.

03.09.2025

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Neutral Citation: Yes/No
To

1. The Judicial Magistrate,
Coimbatore
2. The Judicial Magistrate No.II,
Coimbatore
3. The Inspector of Police,
Q - Branch PS,
Coimbatore.
4. The Public Prosecutor,
High Court of Madras.



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N. SATHISH KUMAR, J.

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