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Crl.OP.No.28762 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2025

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.28762 of 2025

and

Crl.M.P.No.19458 of 2025

Anandhavelu

... Petitioner

Vs.

M/s.Fathima Agencies
rep. by its Prop. A.Rehuman Faizal,
II Cross Street, Jayapuram,
Tindivanam,
Villupuram District.

... Respondent

Prayer: Petition filed under Section 528 of BNSS, to set aside the order dated 04.06.2025 in Crl.M.P.No.5 of 2025 in C.C.No.126 of 2019 on the file of the learned Judicial Magistrate-II, Tindivanam in respect to the recall of respondent/Complainant witness and also direct the trial Court to recall the defense witnesses for examination.

For Petitioner : Mr.G.Mohammed Aserf



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ORDER

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Challenging the order passed by the learned Judicial Magistrate-II, Tindivanam in Crl.M.P.No.5 of 2025 in C.C.No.126 of 2019 dated 04.06.2025 with respect to recall of the respondent/Complainant witness and also to direct the trial Court to recall the defense witnesses for examination, the present Criminal Original Petition has been filed.

2. Heard the learned counsel for the petitioner.

3. The case of the petitioner is that he is the accused facing trial in C.C.No.126 of 2019 on the file of the learned Judicial Magistrate-II, Tindivanam. The petitioner has filed a petition in Crl.M.P.No.5 of 2025 under Section 311 of Cr.P.C., seeking permission to reopen and recall P.W.1 for further cross examination. He has cited that due to non availability of relevant documents at the time of initial cross examination on 23.02.2023, the petitioner was unable to cross examine the witness effectively and thereby, the petitioner has filed the petition for recall. The learned trial Judge had dismissed the petition stating that PW.1 was examined in chief on 07.07.2022 and was cross examined on 23.02.2023 and the case is pending for arguments from 19.10.2023. Challenging the same, the petitioner has



come forward with the present Petition.

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4. The learned counsel for the petitioner would submit that the petitioner has got a good case on merits and due to non availability of relevant documents at the time of cross examination of P.W.1, the petitioner was unable to cross examine the witness effectively. He would submit that if the order passed by the learned Judicial Magistrate-II, Tindivanam is not set aside and permission to re-open and recall PW.1 for further cross examination is not granted, the petitioner would be put to grave hardships and hence, prayed this Court to allow the present Petition.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. It is pertinent to note that the case is of the year 2019 and the trial Court has posted the matter “for arguments”. It is seen that PW1 was examined in chief on 07.07.2022 and cross examined on 23.02.2023 and the case has been pending from 19.10.2023. In such view of the matter, at this stage, this Court is of the view that the petitioner has filed the said petition for recalling the witness only to delay and protract the case and hence, the



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order passed by the trial Court in dismissing the petition filed in CrI.M.P.No.5 of 2025 in C.C.No.126 of 2019 dated 04.06.2025 by the petitioner, warrants no interference. Accordingly, the Criminal Original Petition stands dismissed. Consequently, the connected Miscellaneous Petition is also closed.

23.10.2025

DP

Index:Yes/No
NCC : Yes/No



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To

1.The Judicial Magistrate-II,
Tindivanam.

2.The Public Prosecutor,
Madras High Court.



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A.D.JAGADISH CHANDIRA.J.

DP

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