



WEB COPY

CRL OP No. 30704 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-11-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

**CRL OP No. 30704 of 2025 and
Crl.M.P.Nos.21002 &21003 of 2025**

1. Bosskesavan Alias Kesavan
2. Ravi
3. Naveen
4. Mathivanan Alias Charless

Petitioner(s)

Vs

The State rep by
The Inspector of Police, Kolathur
Police Station, Salem District.

Respondent(s)

PRAYER Criminal Original Petition is filed under Section 528 of BNSS to set aside the order passed in C.M.P.No.90 of 2025 in S.C.No.259 of 2022 dated 15.09.2025 pending on the file of the Assistant Sessions Judge and Chief Judicial Magistrate by allowing this Criminal Original Petition.

For Petitioner(s): Mr.S.Sengkodi

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

ORDER

This Criminal Original Petition has been filed to set aside the order passed by the Assistant Sessions Judge and Chief Judicial Magistrate, Salem in C.M.P.No.90 of 2025 in S.C.No.259 of 2022 dated 15.09.2025, dismissing the petition filed under Section 311 Cr.P.C., seeking to recall P.W.1, P.W.7 and P.W.12.



2. The petitioners are accused facing trial in S.C.No.259 of 2022 for the offences punishable under Sections 395, 397, 120B, 342, 414 and 415 of I.P.C. The petitioners have filed CMP No.90 of 2025 seeking to recall the evidence of P.W.1, P.W.7 and P.W.12 on the ground that certain important questions were not put to the accused during cross-examination. However, the trial Court, finding that the witnesses have already been examined at length and that the application is filed only to fill up the lacuna, had dismissed the same. Challenging the same, the present petition has been filed.

3. The learned counsel for the petitioners submitted that the petitioners are important witnesses and certain questions with regard to stealing of the properties by the de facto complainant (P.W.1) at the Police Station have to be put to the witnesses and hence the application has been filed. However, the learned Judge, without considering that the questions are necessary for arriving at a just decision, had dismissed the same.

4. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent submitted that the prosecution has examined as many as 12 witnesses and the witnesses have been cross-examined by the accused at length. He further submitted that P.W.1 was examined in chief on 23.06.2023 and he was recalled and cross-examined on 10.04.2024 and P.W.2 was examined on 09.10.2023 and cross-examined extensively on the same day and Investigating Officer has been examined and cross-examined on 04.02.2025. The trial Court,



finding that the reasons assigned by the petitioners are not tenable, had dismissed the same. He further submitted that the case is of the year 2022 and as on today, the case in S.C.No.259 of 2022 stands posted for arguments formally. Hence, this petition is not maintainable.

5. I have heard the learned counsel appearing on either side and perused the materials available on record.

6. Taking into consideration the submissions of the learned Government Advocate (Crl. Side), this Court is of the view that the petition to recall the witnesses has been filed only to protract the proceedings. Hence, this Court is not inclined to allow the petitioners to recall the witnesses.

7. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition in Crl.M.P.No.21003 of 2025 is closed. Insofar as Crl.M.P.No.21002 of 2025 filed to dispense with the production of the certified copy of the order in Crl.M.P.No.91 of 2025, dated 15.09.2025, the same is ordered.

11.11.2025

Neutral Citation: Yes/No
Index: Yes/No
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A.D.JAGADISH CHANDIRA,J.,

vum

To

1. The Inspector of Police, Kolathur
Police Station, Salem District.

2. The Public Prosecutor,
High Court of Madras, Chennai

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Crl.M.P.Nos.21002 &21003 of 2025**

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