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CrI.OP.No.32424 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2025

CORAM:

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

CrI.OP.No.32424 of 2025

Prince Jayakumar

...Petitioner

Vs.

State Rep. By Inspector of Police,
The Inspector of Police,
J-7, Velachery Police Station,
Velachery,
Chennai – 600 042.
(Crime No.217 of 2024)

...Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C./528 of BNSS, 2023 to set aside the impugned order dated 24.10.2025 passed in CrI.M.P.No.7536 of 2025 and consequently allow to recall witnesses on the basis of petition filed by petitioner / accused to recall P.W.1 to P.W.3 for the purpose of cross-examination of P.W.1 to P.W.3 under Section 348 of BNSS (Section 311 of Cr.P.C.) in C.C.No.1539 of 2024 on the file of XVIII Metropolitan Magistrate, Saidapet.

For Petitioner : Mr.I.Calvin Jones
For Respondent : Mr.S.Santhosh
Government Advocate (CrI. Side)

ORDER

This criminal original petition has been filed seeking to set aside the



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order passed by the learned XVIII Metropolitan Magistrate, Saidapet dated 24.10.2025 in CrI.M.P.No.7536 of 2025 in C.C.No.1539 of 2024 dismissing the petition filed under Section 311 of Cr.P.C. seeking to recall witnesses i.e., P.W.1 to P.W.3 for the purpose of cross examination.

2. The learned counsel for the petitioner would submit that due to change of counsel before the trial Court, the petitioner was unable to cross examine the witnesses. He would further submit that though it was a serious lapse on the part of the petitioner in not cross-examining the witnesses thus far, denial of an opportunity at this stage, would prevent him from putting forth his defence and would cause serious prejudice to the petitioner in the trial. He would further submit that the petitioner is willing to abide by any condition imposed by this Court, and that, if a specific date is fixed, the petitioner will cross-examine the witnesses on the date of their appearance.

3. This Court, on an earlier occasion, directed the respondent to find out as to whether they will be able to produce the witnesses on a specified date. The learned Government Advocate (CrI. Side), on instructions from the respondent police, submits that they will be able to produce the witnesses on



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the next hearing date i.e., on 11.12.2025.

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4. Admittedly, there had been laches on the part of the petitioner. Change of counsel cannot be a ground for recalling the witnesses. However, taking into consideration the fact that the witnesses have not been cross examined so far and that denial of an opportunity would cause prejudice to the petitioner / accused, this Court is inclined to pass an order for recalling the witnesses imposing certain conditions.

5. Accordingly, the petitioner shall deposit a sum of Rs.6,000/- (3 witnesses x Rs.2,000/- each) before the trial Court on or before 08.12.2025. On such deposit being made, the trial Court shall direct the respondent to produce the witnesses before the Court for cross-examination on 11.12.2025 or any other date convenient to the trial Court. The amount of Rs.2,000/- each shall be disbursed to the witnesses on the day of their appearance. If the petitioner fails to cross-examine the witnesses on the day of their appearance, he shall lose further chance of cross-examination.

6. With the above observation, this Criminal Original petition is disposed of.

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Speaking order : Yes/No

NCC : Yes/No

To:

1. The Inspector of Police,
J-7, Velachery Police Station,
Velachery,
Chennai – 600 042.

2. The Public Prosecutor,
Madras High Court.

3. The XVIII Metropolitan Magistrate, Saidapet.

A.D.JAGADISH CHANDIRA, J.



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