



Crl.OP.No.32615 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2025

CORAM:

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

Crl.OP.No.32615 of 2025

and

Crl.M.P.No.22656 of 2025

1. R.Saravanan
2. A.Madhesh
3. K.Thangarasu

...Petitioners

Vs.

State rep by.,
Inspector of Police,
CCIW CID,
Salem District.
(Cr.No.2 of 2005)

...Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C./528 of BNSS, 2023 to set aside the order passed in Crl.M.P.No.3729 of 2025 in C.C.No.86 of 2021 dated 22.10.2025 on the file of the Judicial Magistrate – IV, Salem, and consequently allow the same.

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For Petitioners : Mr.N.U.Pressanna
For Respondent : Mr.S.Santhosh,
Government Advocate (Crl. Side)

ORDER

This criminal original petition has been filed seeking to set aside the order passed in Crl.M.P.No.3729 of 2025 in C.C.No.86 of 2021 dated 22.10.2025 on the file of Judicial Magistrate-IV, Salem dismissing the application filed by the petitioners under Section 311 of Cr.P.C to recall the witnesses for the purpose of cross examination.

2. The petitioners are the accused, facing trial for the offences under Sections 408, 467, 471, 477-A r/w.120 B of IPC, 1860 . The petitioners have filed an application seeking to recall the prosecution witnesses P.W.2, P.W.3 and P.W.7 to P.W.15 for the purpose of cross-examination. However, the said application has been dismissed by the trial court on the ground the witnesses were examined in chief approximately during the period between

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2008 and 2011 and also that the application has been filed belatedly only

after the preparation of the questionnaire under Section 313(1)(b) of Cr.P.C.

Challenging the same, the present petition has been filed.

3. The learned counsel for the petitioners submit that although there has been a serious lapse on the part of the petitioners in not cross-examining the witnesses thus far, denial of an opportunity at this stage would prevent them from putting forth their defence and would cause serious prejudice to them in the trial. He would submit that the petitioners are willing to abide by any condition that may be imposed by this Court, and that, if a specific date is fixed, the petitioners will cross-examine the witnesses on the date of their appearance.

4. The learned Government Advocate (Crl. side) appearing on behalf of the respondent would submit that the witnesses were examined during the

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period between the year 2008 and 2011. This Court, on the earlier occasion

directed the respondent to find out as to whether they will be able to produce the witnesses on a specified date. Today, it is reported that P.W.7 and 9 have passed away, while the other witnesses are available and can be produced by the respondent on the date fixed by the trial Court. He further submits that the case is now posted for examination of defence witnesses on 10.12.2025.

5. This Court finds that there is no infirmity in the order passed by the learned trial judge. However, considering that the crucial witnesses have not yet been cross-examined, this Court is of the opinion that one further opportunity may be granted to the petitioners, subject to imposition of costs and certain conditions.

6. In view of the above, the petitioners shall deposit a sum of Rs.45,000/- (9 witnesses x Rs.5,000/- each) to the credit of Cr.No.2 of 2005

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on the next hearing date, ie., 10.12.2025. On such deposit being made, the

trial Judge shall fix a date for the appearance of the witnesses and issue summons, and the petitioners shall cross-examine the witnesses on the date of their appearance before the Court. In the event, the petitioners fail to cross-examine the witnesses on the date so prescribed, they shall forfeit their opportunity for cross-examination.

7. With the above observation, this criminal original petition is disposed of. Consequently, connected miscellaneous petition is closed.

02.12.2025

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Speaking order : Yes/No

NCC : Yes/No

Note to Office : Issue Order Copy on 03.12.2025



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A.D.JAGADISH CHANDIRA, J.

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To:

1. The Inspector of Police,
CCIW CID,
Salem District.
2. The Public Prosecutor,
Madras High Court.
3. The Judicial Magistrate – IV, Salem

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