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Crl.O.P.No.2783 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2026

CORAM:

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

Crl.O.P.No.2783 of 2026

Kalaiyarasan

...Petitioner

Vs.

State of Tamil Nadu represented by,
The Inspector of Police,
Veeraganoor Police Station,
Salem District.

...Respondent

Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita/Section 482 of Cr.P.C., to extend the time to comply with the condition in C.M.P.No.200 of 2023 dated 10.11.2023 in S.C.No.46 of 2013 on the file of the Subordinate Court, Aathur.

For Petitioner : Mr.P.Muthamizhselvakumar

For Respondent : Mr.S.Santhosh, GA (Crl. Side)

ORDER

This petition has been filed seeking to extend the time to comply with the condition imposed by the Subordinate Court, Aathur in C.M.P.No.200 of 2023 in S.C.No.46 of 2013, vide order dated 10.11.2023.



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2. The brief facts of the case are as follows :-

2.1. The petitioner is an accused facing trial in S.C.No.46 of 2013 before the Subordinate Court, Aathur, for the offence punishable under Section 307 of IPC, in Crime No.205 of 2010, on the file of the respondent-police.

2.2. In the said case, the petitioner/accused filed a petition under Section 311 Cr.P.C., in C.M.P.No.200 of 2023 seeking to recall PW1 to PW3 for cross-examination. The learned Judge, vide order dated 10.11.2023, allowed the said petition, on payment of costs of Rs.1,000/- to each of the witnesses. Since the petitioner could not comply with the conditions imposed in the said order, the petitioner has come up with the present petition.

3. Learned counsel for the petitioner submitted that when PW1 to PW3 were examined in chief on 20.09.2021, as the learned counsel who appeared on behalf of the petitioner before the trial court was not present, cross-examination of the said witnesses could not be done. Therefore, the petitioner filed a petition under Section 311 Cr.P.C. seeking to recall PWs.1 to PWs.3, which came to be allowed by the trial Court, vide order dated

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10.11.2023, on payment of costs and the was subsequently dismissed on 08.01.2024, for non-payment of costs as ordered by the court below.

However, the learned counsel for the petitioner submitted that the petitioner was seriously indisposed and he went to Kerala and was held up there and thereafter, he was arrested and remanded to judicial custody on 05.01.2026, pursuant to the NBW issued against him and thus, only due to his indisposition and subsequent incarceration, the petitioner was unable to comply with the condition imposed by the Court below, which is neither wilful nor wanton. He further submitted that the petitioner has now mobilised funds and is ready to comply with the condition imposed by the Court below and if the petitioner is not given an opportunity to cross-examine the witnesses, he would be put to a great predicament. Accordingly, he prayed for appropriate orders of this Court granting extension of time to comply with the condition imposed by the Court below.

4. Learned Government Advocate (Criminal Side), on instructions, submitted that there are totally twelve (12) witnesses in this case and that the case now stands posted to 16.02.2026 for arguments.



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5. On enquiry made by this Court as to whether the respondent police would be able to produce the witnesses on a particular date to be fixed by the trial Court, the learned Government Advocate (Criminal Side), on instructions, submitted that the witnesses are locals and hence, the respondent would be able to produce them before the trial Court.

6. Having heard the learned counsel appearing on either side and perused the materials available on record, though there had been certain lapses on the side of the petitioner, considering the fact that PW1 to PW3 were not cross-examined by the petitioner owing to the aforesaid reasons and if PW1 to PW3 are not cross-examined, it will amount to a case of no defence, this Court is inclined to grant one opportunity to the petitioner to cross-examine the witnesses PW1 to PW3, by extending the time to comply with the condition imposed by the Court below.

7. Accordingly, this Court directs the petitioner to deposit a sum of Rs.3,000/- (Rupees Three Thousand only) in total before the trial Court on or before 13.02.2026 and on such deposit made by the petitioner, the learned trial Judge shall recall PW1 to PW3 and fix a date for their cross-examination. It is made clear that the petitioner shall cross-examine the said



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witnesses on the very same day of their appearance. In the event of his failure to do so, he will lose the opportunity to cross-examine the witnesses.

8. The trial Court shall disburse a sum of Rs.1,000/- to each of the witnesses, namely PW1 to PW3, on the date of their appearance.

9. With the above directions and observation, this criminal original petition stands disposed of.

06.02.2026

skt

Neutral Citation: Yes/No

To:

1.The Subordinate Court,
Aathur.

2.The Inspector of Police,
Veeraganoor Police Station,
Salem District.

3.The Public Prosecutor,
Madras High Court.



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A.D.JAGADISH CHANDIRA, J.

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