



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-03-2026

CORAM

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

CRL OP No. 4954 of 2026

and

CRL MP No.3610 of 2026

S.Thillai Selvan

..Petitioner(s)

Vs

The State rep.by,
The Additional Superintendent of Police,
SPE, CBI, EOB, Chennai.
In RC.No.4/E/2004/CB/EOW Chennai.

..Respondent(s)

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C. to set aside the order in Crl.MP.No.15 of 2025 dated 04.02.2026 on the file of the learned I Additional (TADA) City Civil and Sessions Court, Chennai by allowing this criminal original petition.

For Petitioner(s): Ms. N.Subhasree

For Respondent(s): Mr.B.Mohan,
Special Public Prosecutor For CBI Cases



ORDER

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The Petitioner/Accused has filed this Criminal Original Petition seeking to set aside the order dated 04.02.2026 passed by the learned I Additional City Civil & Sessions Judge, Chennai, in Criminal M.P. No. 15 of 2025. By the impugned order, the learned Judge dismissed the petitioner's application filed under Section 311 of the Cr.P.C., which sought to recall and reopen the evidence of prosecution witnesses PW1, PW2, PW11, and PW25 for the purpose of further cross-examination at the appellate stage.

2.The brief facts of the case are that the petitioner is a convicted accused in C.C. No. 2037 of 2006 on the file of the Additional Chief Metropolitan Magistrate Court, Egmore, Chennai. During the trial, a significant procedural development occurred on 08.04.2022, when the Trial Court amended and altered the charges to include offences under Section 120B and Section 471 of the Indian Penal Code. Following this alteration, the Trial Court rendered its judgment on 31.05.2022, convicting the petitioner. Aggrieved by the conviction and sentence, the petitioner preferred an appeal in Criminal Appeal No. 102 of 2022. Pending the appeal, the petitioner filed the present application under Section 311 of the Cr.P.C. to recall the witnesses, which was strongly contested by the respondent through a detailed counter-affidavit.



3.The learned counsel for the petitioner submitted that the petitioner, currently 61 years of age, has been severely incapacitated by paralysis, resulting in him being frequently hospitalised on and off during the course of the legal proceedings. It was argued that due to his deteriorating health, the petitioner was physically and mentally unable to properly follow the case or provide timely instructions to his counsel, particularly after the charges were altered on 08.04.2022. The petitioner contended that since no further cross-examination was conducted specifically addressing the newly added elements of conspiracy and forgery, his right to a fair trial was compromised. It was further submitted that the evidence of these witnesses is essential for arriving at a just decision in the appeal and that the petitioner's failure to seek a recall earlier was purely due to his indisposition. The petitioner urged that if a final chance is not granted, it would cause grave and irreparable prejudice to his defence in the pending appeal.

4.The learned Special Public Prosecutor appearing for the respondent-State provided a meticulous and sequential timeline of the evidence already recorded to demonstrate that the witnesses have been extensively cross-examined over the last fifteen years. He pointed out that PW1 was examined in chief on 07.06.2010, cross-examined on 01.11.2011, and was actually recalled for further cross-examination on 23.11.2021 i.e., ten years after his initial



testimony. Regarding PW2, he was examined in chief on 07.07.2010 and was recalled for further cross-examination on several dates, namely 23.07.2010, 10.08.2010, and 07.09.2010, before being lastly cross-examined on 01.11.2011.

Further, PW11 was examined in chief on 12.04.2011 and cross-examined on 22.02.2012. As for PW25, he was examined in chief on 23.01.2013 and was subjected to cross-examination on multiple dates, specifically 28.01.2013, 07.03.2013, 04.12.2021, and 15.02.2022. The respondent highlighted that although the Trial Court altered the charges on 08.04.2022 and provided an opportunity to recall witnesses at that stage, the petitioner failed to avail himself of it before the final judgment was delivered on 31.05.2022.

5.The respondent further brought to the attention of this Court the subsequent conduct of the petitioner during the appeal. Even after the appeal was filed in 2022, no application for recall was filed. Instead, the petitioner filed an application under Section 391 Cr.P.C. seeking to file additional evidence. When that application was dismissed, the petitioner preferred Criminal Revision Petition No. 1567 of 2025 before this High Court. This Court allowed that revision, vide order dated 10.09.2025 only to the extent of marking certified copies of the charges framed in C.C. Nos. 17 and 18 of 2002 as additional documents, noting that they were undisputed. Crucially, this Court then directed the appellate court to receive the documents and dispose of the appeal without any further delay. The present petition to recall the witnesses was filed on



10.11.2025, two months after that specific direction. The respondent argued that this is a clear attempt to protract the proceedings and that the petitioner cannot now seek leniency after ignoring multiple opportunities to act. Furthermore, it was informed that PW2 is now deceased and the remaining witnesses are senior citizens who testified about events that took place in 2010.

6. Heard both sides and perused the records.

7. The records indicate that the petitioner has been afforded multiple opportunities over the past 15 years to cross-examine the witnesses in question. The Court takes note of the submission by the learned Special Public Prosecutor that PW2 is no longer alive, and the remaining witnesses, now senior citizens, are being called to testify on events that occurred long ago. In such circumstances, the Court must strike a balance between the rights of the accused and the convenience and dignity of the witnesses. The petitioner has failed to provide specific or compelling reasons necessitating further questioning at this belated stage. Furthermore, the absence of such a request at the time of filing the appeal or during the previous Section 391 petition leads to the irresistible conclusion that the present application is a mere afterthought. Consequently, this Court finds no reason to interfere with the well-reasoned order of the court below.



8. The petitioner cannot take the plea of leniency now, as it appears that this application was filed only to protract the proceedings and delay the disposal of the appeal, especially after this Court had already ordered a speedy conclusion. The appellate court was right in finding that no proper grounds were made out and that the application was filed at a belated stage. Since there is no merit in the petitioner's claims, this Criminal Original Petition is **dismissed**. The appellate court is directed to proceed with the arguments and dispose of the appeal as per the earlier directions of this Court.

13-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

1. The Additional Superintendent of Police,
SPE,CBI,EOB, Chennai.
In RC.No.4/E/2004/CB/EOW Chennai.
2. The I Additional City Civil & Sessions Judge,
Chennai.
3. The Special Public Prosecutor,
CBI, Chennai.



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A.D.JAGADISH CHANDIRA, J.

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