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CRL OP No. 5226 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-03-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 5226 of 2026

Mohammed Azarudeen

..Petitioner(s)

Vs

The State Rep by,
The Inspector of Police,
V-6, Kolathur Police Station,
(Crime No.86 of 2024)

..Respondent(s)

PRAYER: This Criminal Original Petition is filed under Section 528 of BNSS to set aside the order dated 10.11.2025 in Crl.M.P. No.11310 of 2025 passed by the learned XIII Metropolitan Magistrate, Egmore.

For Petitioner: Mr.P.Natarajan

For Respondent: Mr.Leonard Arul Joseph Selvam,
Additional Public Prosecutor

ORDER

The Criminal Original Petition has been filed to set aside the order dated 10.11.2025 passed in Crl.M.P. No.11310 of 2025 by the learned XIII Metropolitan Magistrate, Egmore.



2. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the first respondent.

3. Considering the submissions made and upon perusal of the materials available on record, it is seen that the petitioner/A1 had filed a recall petition in CrI.M.P. No.11310 of 2025 seeking to recall P.W.4 and P.W.6 to P.W.12. The said petition was dismissed, against which the present petition has been filed. Initially, a case was registered in Crime No.86 of 2024 by the respondent police and, after investigation, a charge sheet was filed in C.C. No.2751 of 2024. In this case, twelve witnesses have been examined. The petitioner/A1 had not cross-examined P.W.4 and P.W.6 to P.W.12. The petitioner, along with six others, is facing prosecution for offences under Sections 419, 420, 465, 467 and 468 IPC read with Section 120(b) IPC and Section 66(D) of the Information Technology (Amendment) Act, 2008, of which A6 and A7 are absconding.

4. The case relates to impersonation, cheating, and creation of forged documents and using them as genuine. In this case, P.W.4 is the witness who



speaks about the bank settlements and the accounts of the petitioner; P.W.6 speaks about the relationship between A2 and A5; P.W.7 speaks about the company started by A1, A2 and A4, and also about the audit work carried out; P.W.8 speaks about the confession made at the time of the arrest of A1 and A3; and P.W.9 to P.W.12 are the Investigating Officers. It is seen that none of these witnesses were cross-examined. Evidence would be complete only when the testimony of witnesses is tested through cross-examination, which would enable the Trial Court to ascertain the truth and the facts of the case. Denying cross-examination solely on the ground of delay would amount to denial of the right to a fair trial.

5. The learned Additional Public Prosecutor appearing for the respondent submitted that the case is now at the stage of arguments and that a Non-Bailable Warrant has been issued against A5, which is still pending. The next date of hearing before the Trial Court is 13.03.2026.

6. In view of the above factual position, the impugned order is set aside and the recall petition is allowed, permitting the recall of P.W.4 and P.W.6 to P.W.12, subject to payment of costs of Rs.2,000/- (Rupees Two Thousand only)



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M.NIRMAL KUMAR, J.

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each. The said amount shall be deposited to the credit of C.C. No.2751 of 2024 before the XIII Metropolitan Magistrate, Egmore, within a period of two weeks from the date of this order, failing which the order shall stand cancelled. It is made clear that no further extension of time or modification of this order will be granted.

7. Accordingly, this Criminal Original Petition is **allowed** with the above direction.

10-03-2026

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

RKP

To

1. The XIII Metropolitan Magistrate, Egmore.
2. The Inspector of Police,
V-6, Kolathur Police Station

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