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CrI.O.P.No.6377 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2026

CORAM:

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

CrI.O.P.No.6377 of 2026

S.Amerasan

...Petitioner

Vs.

State represented by,
The Inspector of Police,
Vigilance & Anti-Corruption,
Krishnagiri District.

...Respondent

Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, to call for records and to set aside the order dated 24.02.2026 passed by the learned Principal District and Sessions Judge, Krishnagiri in CrI.M.P.No.669 of 2026 in Spl.C.C.No.16 of 2025 and allow the petition filed under Section 311 Cr.P.C. and permit the recall of PW2 for limited cross-examination on contradictions arising out of departmental enquiry proceedings.

For Petitioner : Mr.G.Kartheeban

For Respondent : Mr.S.Udayakumar, GA (CrI. Side)



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ORDER

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This criminal original petition has been filed seeking to set aside the order passed by the Principal District and Sessions Judge, Krishnagiri, in Crl.M.P.No.669 of 2026 in Spl.C.C.No.16 of 2025 on 24.02.2026.

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

The petitioner is an accused facing trial in Spl.C.C.No.16 of 2025, before the learned Principal District and Sessions Judge, Krishnagiri. The petitioner/accused filed a petition under Section 311 Cr.P.C., in Crl.M.P.No.669 of 2026 seeking to recall P.W.2/de facto complainant for further cross-examination and to mark his evidence before the departmental enquiry. The learned trial Judge, vide order dated 24.02.2026, returned the said petition. Challenging the same, the petitioner has come up with this petition.

3. Learned counsel for the petitioner submitted that admittedly, the de-facto complainant/P.W.2 was examined in chief in the year 2018 and his cross-examination was completed as early as 2021. However, since there were some contradictions in the statements given by P.W.2 before the trial court and during the departmental enquiry proceedings with regard to the



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date and manner of alleged demand of bribe, which goes to the root of the prosecution case, in order to establish the same and to prove his innocence, he filed the petition in Crl.M.P.No.669 of 2026 seeking to recall P.W.2. However, the trial court, without considering the fact that the same is necessary in order to arrive at a fair decision, had returned the said petition, vide impugned order dated 24.02.2026, which is not sustainable. He further submitted that if the petitioner is not given an opportunity to cross-examine P.W.2, he would be put to a great predicament. Hence, he prayed to set aside the order dated 24.02.2026.

4. Learned Government Advocate (Criminal Side), appearing on behalf of the respondent, on instructions, submitted that the cross-examination of P.W.2 was closed as early as in the year 2021. While so, after a lapse of about five years, the petitioner filed the present recall petition, which is nothing but a tactic used by the petitioner/accused to prolong the proceedings. He further submitted that it is well settled that departmental and criminal proceedings are separate and distinct and they may proceed simultaneously as they operate in different fields with different standards of proof. While departmental proceedings are decided on a preponderance of probabilities, criminal trials require proof beyond a reasonable doubt and therefore, the petitioner cannot rely on the evidence or



findings of the departmental proceedings to establish his innocence in the criminal trial. Hence, the trial court, after careful consideration of all the above said facts, returned the recall petition filed by the petitioner, which cannot be said to be erroneous. He also submitted that the case now stands posted to 07.04.2026 for examination of the Investigating Officer.

5. On the enquiry made by this Court as to whether the respondent police would be able to produce the witness on a particular date to be fixed by the trial Court, the learned Government Advocate (Criminal Side), on instructions, replied in the affirmative, inasmuch as, P.W.2/de facto complainant is a local resident.

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, this Court is of the view that one opportunity must be given to the petitioner in order to prove his case and to elicit the contradictions between the evidence of P.W.2. in the departmental proceedings and the one recorded in the criminal trial, however, subject to payment of costs.

7. In view of the above, the impugned order dated 24.02.2026 in Crl.M.P.No.669 of 2026 stands set aside, on condition that the petitioner



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deposits a sum of Rs.5,000/- (Rupees Five Thousand only) before the trial

Court on or before 01.04.2026.

8. On such deposit made by the petitioner, the learned trial Judge shall recall P.W.2 and fix a date for cross-examination. It is made clear that the petitioner shall cross-examine the said witness on the very same day of his appearance. In the event of his failure to do so, he will lose the opportunity to cross-examine the witness.

9. The trial Court shall disburse a sum of Rs.5,000/- to P.W.2, on the date of his appearance.

10. Accordingly, this criminal original petition stands allowed.

12.03.2026

skt

Neutral Citation: Yes/No

To:

1. The Principal District and Sessions Judge,
Krishnagiri.
2. The Inspector of Police,
Vigilance & Anti-Corruption,
Krishnagiri District.
3. The Public Prosecutor,
Madras High Court.

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