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CRL OP No. 7082 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-03-2026

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THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

**CRL OP No. 7082 of 2026 AND
CRL MP NO. 5130 OF 2026**

Latha

..Petitioner

Vs

1. State Rep.by, The Inspector of Police,
CCB Police Chennai City,
Chennai.
2. M.L.R. Gupta
Zonal Manager.
Shree Gokulam Chit and Finance Co.(P) Ltd.,
Corporate Office,
Shree Gokulam Towers,
No.66, Arcot Road, Chennai - 83
Residing at
Plot No.16, No.11, Circular Road,
Kodambakkam, Chennai.

..Respondents

To set aside the order passed in Crl.M.P.No.662 of 2026 dated 26.02.2026 in CC.No.7011 of 2008 on the file of the XI Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.R.C.Paul Kangaraj

For Respondents : Mr.Leonard Arul Joseph Selvam,
Additional Public Prosecutor for R1

Order

This petition has been filed to set aside the order passed in Crl.M.P.No.662 of 2026 dated 26.02.2026 in CC.No.7011 of 2008 on the file of the XI Metropolitan Magistrate, Saidapet, Chennai.



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2. This court, on 23.03.2026 has passed the following orders:

“The petitioner/accused No.2, who is facing trial in C.C. No. 7011 of 2008 filed Crl.M.P. No. 662 of 2026 before the learned XI Metropolitan Magistrate, Saidapet, Chennai to recall P.W.s 1 to 20. The Trial Court, finding that the witnesses are being examined from the year 2009; that neither the witnesses have cross-examined nor steps have been taken to cross-examine the witnesses, except for P.W.2, who was cross-examined on 11.06.2018 and that the petition to recall has been filed when the case has been adjourned for the evidence of the Investigating Officer, dismissed the petition, by the order under challenge. Hence, the present criminal original petition.

2. The learned counsel for the petitioner submitted that the petitioner is facing trial since her husband/accused No.1 is alleged to have misappropriated the funds of M/s. Sri Gokulam Chit and Finance Co. Private Limited, in which he was working as Manager of Mylapore Branch. Further, it is submitted that all along, her husband was taking care of the case and only after his demise on 08.01.2020, the petitioner has been involved in the case and she has been now advised to recall P.W.s 1 to 20 for the purpose of cross-examination.

3. Learned Additional Public Prosecutor would strongly oppose the prayer contending that the petitioner is facing trial for the offences under Sections 409, 406, 465, 467, 471, 477A r/w 109 & 34 IPC; that the petitioner along with her husband had misappropriated a sum of Rs. 1,05,26,896/- as



early as in the year 2005; that the FIR was registered in the year 2005; that the investigation was completed and charge sheet was filed in the year 2008; that the first witness was examined in the year 2009 and thereafter, due to the dilatory tactics adopted by the accused, on one pretext or the other, the case has been protracted. He would further submit that nearly 9 years after the examination of P.W.1, P.W.2 was examined on 31.01.2018; thereafter, the witnesses have been periodically examined and on 03.12.2025, P.W.20 was examined. Thereafter, the case has been adjourned for the evidence of the Investigating Officer. At this stage, the petitioner came forward with the petition under Section 311 Cr.P.C. seeking to recall P.W.s 1 to 20. Learned Additional Public Prosecutor would also submit that when the petitioner's husband passed away as early as in the year 2020, at this distance of time, i.e., after 6 years, she cannot take a stand that her husband was taking care of the case and after his demise, she is now involved in the case, which is unsustainable.

4. The learned counsel for the petitioner would now restrict his plea and submit that instead of recalling P.W.s 1 to 20, it would suffice, if P.W.s 1, 2, 7, 8, 11 and 14 alone are recalled for the purpose of cross-examination.

5. In the light of the limited plea now taken by the learned counsel for the petitioner, with regard to recall of P.W.s 1, 2, 7, 8, 11 and 14 alone, the learned Additional Public Prosecutor seeks time to verify about the availability of the said witnesses. Further, the petitioner has to justify the reason to recall the aforesaid witnesses.



6. *At the request of learned Additional Public Prosecutor,
post on 27.03.2026.”*

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3. Pursuant to the order passed by this Court on 23.03.2026, the learned Additional Public Prosecutor has filed a status report confirming that PW1, PW2, PW7 and PW8 are available in Chennai and PW11 and PW14 are not available.

4. In view of the above, this petition is allowed, and the order of the trial court in CC.No.7011 of 2008 on the file of the XI Metropolitan Magistrate, Egmore, Chennai, is set aside. The petitioner is permitted to recall PW1, PW2, PW7 and PW8 alone. It is made clear that the recall of the witnesses and their cross examination by the petitioner shall be completed on the same day, when the witnesses appear before the trial court. The petitioner cannot seek any adjournment for any reason. If the petitioner fails to cross examine the witnesses on their appearance, then the opportunity given shall stand automatically closed.

30-03-2026

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No



To

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1. The Inspector of Police,
CCB Police Chennai City,
Chennai.
2. The Public Prosecutor,
Madras High Court.



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M.NIRMAL KUMAR J.

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