



WEB COPY

CRL OP No. 7918 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-03-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 7918 of 2026

and

CrI.M.P.No.5632 of 2026

1. Ramar
2. Muthammal
3. Perumal

..Petitioner(s)

Vs

State rep. by
The Sub Inspector of Police,
Jalakandapuram Police Station,
Mettur Taluk,
Salem District.
Cr.No. 412/2024.

..Respondent(s)

Prayer: This criminal original petition has been filed under Section 528 of BNSS, calling for the records connected with the order dated 10.02.2026 in M.P.No.1/2026 passed in C.C.No. 412 of 2024 on the file of the learned Judicial Magistrate No.II, Mettur, set aside the same and allow the petitioners to recall PW1, PW2, PW6, PW7 and PW8 for cross-examination.

For Petitioner(s): Mr.K.Thilageswaran

For Respondent(s): Mr.Leonard Arul Joseph Selvam
Additional Public Prosecutor



ORDER

This Criminal Original Petition has been filed by the petitioners, seeking to quash the order dated 10.02.2026 passed in M.P.No.1 of 2026 in C.C.No.412 of 2024 on the file of learned Judicial Magistrate No.II, Mettur.

2. The petitioners are accused in C.C.No.412 of 2024 and they filed M.P.No.1 of 2026 seeking to cross examine P.Ws.1, 2, 6, 7 and 8 stating that on the date when the prosecution witnesses were examined, the senior counsel appearing for the accused was not available as he was away from Mettur and later the accused approached the Legal Services Authority, Mettur for appointment of legal aid counsel for defending the case. In this regard, it is necessary to recall P.W.1, P.W.2, P.W.6, P.W.7 and P.W.8 for cross examination and if they were not cross examined, the accused will be put to irreparable loss.

3. The accused is facing trial in C.C.No.412 of 2024 for the alleged offences under Sections 294(b), 341, 324 and 506(ii) IPC. On 20.09.2025, the prosecution examined P.W.1 to P.W.8 in chief. Due to non-availability of the senior counsel on record for the petitioners, the prosecution witnesses were not cross-examined. Later on, when the matter was posted for further examination, the accused have filed M.P.No.1 of 2026 for recalling of P.W.1, P.W.2, P.W.6,



P.W.7 and P.W.8.

WEB COPY

4. The learned counsel for the petitioners contended that the petitioners could not cross-examine the witnesses on the same day, i.e. on 20.09.2025, solely for the reason that the senior counsel who engaged earlier was out of station and effective cross examination could not be undertaken without his assistance and preparation. Since the petitioners/accused were not in a position to continue with their earlier counsel, they sought for appointment of legal aid counsel to conduct the case. Accordingly, on 25.09.2025, legal aid counsel was engaged to proceed with the case. Since the case bundle and papers were with the earlier counsel, it took time to obtain the complete bundle from the previous counsel and hand over them to the legal aid counsel. As a result, the legal aid counsel was not able to file recall petition immediately to cross examine the witnesses. Soon after the bundle was obtained, the legal aid counsel was in a position to proceed with the matter and filed the petition seeking recall of P.W.1, P.W.2, P.W.6, P.W.7 and P.W.8. He would submit that without looking into the factual scenario highlighted by the petitioners/accused, the trial court simply dismissed the petition and the reason assigned by the trial Court for dismissal of M.P.No.1 of 2016 is not proper and, thus, the order of the trial court is liable to be set aside.

5. On the other hand, learned Additional Public Prosecutor submitted that



despite an opportunity granted to the petitioners/accused for cross examination of the prosecution side witnesses, they have not been examined on the side of accused and petition to recall the witnesses was belatedly filed only on 03.02.2026. In fact, petition to recall P.W.1, P.W.2, P.W.6, P.W.7 and P.W.8 has been filed only to drag the case and the trial Court was rightly dismissed the petition. Thus, he prayed for dismissal of the present petition.

6. Heard both sides and perused the materials available on record.

7. Considering the submissions made by the learned counsel on either side and upon perusal of the materials available on record, it appears that there is a civil dispute between the petitioners and the de facto complainant for the past 15 years. The case of the prosecution is that on 12.01.2023, the petitioners entered the godown of the de facto complainant and abused and threatened them, and that the first petitioner assaulted the de facto complainant. Since it is a long-pending Civil dispute between the parties, which has been given the colour of a criminal case, the petitioners have to necessarily cross examine these witnesses regarding motive and false implications as claimed. This Court is of the view that the evidence can be completed only after it is tested by cross examination. The petitioners shall cross examine the witnesses on the day they appear, and the petitioners shall not take any further adjournments.



8. In view of the above, the impugned order dated 10.02.2026 in M.P.No.1 of 2026 passed in C.C.No. 412 of 2024 on the file of learned Judicial Magistrate No.II, Mettur, is set aside. The trial Court is directed to recall the P.W.1, P.W.2, P.W.6, P.W.7 and P.W.8 for cross examination. Consequently, connected Miscellaneous Petition is closed.

30-03-2026

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

To

1. The Judicial Magistrate No.II, Mettur.

2. The Sub Inspector of Police,
Jalakandapuram Police Station,
Mettur Taluk,
Salem District.
Cr.No. 412/2024.

3. The Public Prosecutor,
High Court, Madras.



WEB COPY

CRL OP No. 7918 of 2



M.NIRMAL KUMAR, J.

jd

CRL OP No. 7918 of 2026

30-03-2026