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CRL OP No. 8353 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 06.04.2026**

CORAM

**THE HON'BLE MR JUSTICE M. NIRMAL KUMAR**

**CRL OP No. 8353 of 2026  
and Crl.M.P.No.5926 of 2026**

1.Jayakumar  
2.Karthik  
3.Shiyam  
4.Kavidoss  
5.Settu @ Manigandan  
6.Kutty @ Ramachandran

..Petitioner(s)

Vs

The State represented through  
The Inspector of Police,  
Mailam Police Station,  
Tindivanam, Villupuram.  
(Crime No.398 of 2014)

..Respondent(s)

Criminal Original Petition is filed under Section 528 of B.N.S.S., to set aside the order dated 17.06.2025 passed by the II Additional District and Sessions Judge, Tindivanam, in Crl.M.P.No.9 of 2025 in S.C.No.329 of 2016.

For Petitioner(s): Mr.R.Sreedhar

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

### **ORDER**

This Criminal Original Petition has been filed seeking to quash the order dated 17.06.2025 passed by the II Additional District and Sessions Judge, Tindivanam, in Crl.M.P.No.9 of 2025 in S.C.No.329 of 2016.



2. The petitioners/accused who are facing trial for the offences punishable under Sections 364, 382, 302, 404, 413, 201 and 120(b) of IPC in S.C.No.329 of 2016, had earlier filed a petition in Crl.M.P.No.9 of 2025 under Section 311 Cr.P.C., seeking recall of P.W.6, P.W.7, P.W.12, P.W.22 to P.W.28 and P.W.30 for the purpose of cross examination. The said petition came to be dismissed by the learned II Additional and Sessions Judge, Tindivanam, by order dated 17.06.2025. Aggrieved by the same, the present petition has been filed.

3. The contention of the petitioners is that at the time of furnishing copies under Section 207 Cr.P.C., the CCTV footage and related reports were not supplied to them. According to the prosecution, the petitioners had abducted the victim, transported him in a car through a tollgate and thereafter, committed murder. The case rests substantially on circumstantial evidence, wherein the CCTV footage of the tollgate forms a crucial link in the chain of circumstances. It is the grievance of the petitioners that, in the absence of such material, they were seriously prejudiced and could not effectively cross-examine the witnesses. It is further submitted that after subsequently obtaining the said materials, the petitioners filed a petition in Crl.M.P.No.02 of 2025 to recall the witnesses; however, the same was dismissed. Hence, the petitioner again filed a petition in Crl.M.P.No.09 of 2025 seeking similar relief. The petitioners have also expressed their willingness, in the alternative, to bear costs of Rs.5,000/-



for each witness, payable to the District Legal Services Authority. The learned trial Judge, while dismissing the earlier petition, placed reliance on the judgment of the Hon'ble Apex Court in *Vinodkumar Vs. the State of Punjab* (2015) 3 SCC 220, wherein it was held that cross-examination should ordinarily be completed on the same day as examination-in-chief and if not possible, on the next working day. It was further observed that unnecessary adjournments should be avoided. However, the said decision arose in the context of cases under the Prevention of Corruption Act, where expeditious trial is statutorily mandated and the same principle cannot be applied in a rigid manner to a case based on circumstantial evidence involving grave charges.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that none of the witnesses had been cross-examined earlier despite sufficient opportunity. Though the electronic evidence was not initially furnished at the stage of Section 207 Cr.P.C., the same was subsequently provided. Even thereafter, the petitioners failed to proceed with cross-examination and have been adopting dilatory tactics, thereby protracting the trial. It is further submitted that the case pertains to the year 2016 and has been pending for nearly a decade and that the petitioners are facing charges carrying capital punishment.



5. Considering the rival submissions and on perusal of the materials available on record, it is seen that admittedly none of the witnesses have been effectively cross examined. It is a settled principle that cross-examination is an essential facet of a fair trial, enabling the accused to test the veracity of the prosecution witnesses. In the interest of justice and to afford a fair opportunity to the petitioners to defend their case, this Court is inclined to grant one opportunity to the petitioners to cross-examine that P.W.6, P.W.7, P.W.12, P.W.22 to P.W.28 and P.W.30, subject to payment of costs.

6. Accordingly, this Criminal Original Petition is allowed and the order passed by the learned II Additional District and Sessions Judge, Tindivanam, in CrI.M.P.No.9 of 2025 in S.C.No.329 of 2016, dated 17.06.2025, is set aside, on condition that the petitioners deposit a sum of **Rs.55,000/- (Rupees Fifty Five Thousand only)** before the trial Court.

7. On such deposit made by the petitioners, the learned trial Judge shall recall P.W.6, P.W.7, P.W.12, P.W.22 to P.W.28 and P.W.30 and fix a date for their cross-examination. It is made clear that the petitioners shall cross-examine the said witnesses on the very same day of their appearance. In the event of their failure to do so, they will lose the opportunity to cross-examine the witnesses.



8. The trial Court shall disburse a sum of Rs.5,000/- to each of the witnesses, namely P.W.6, P.W.7, P.W.12, P.W.22 to P.W.28 and P.W.30, on the date of their appearance.

**06.04.2026**

Index: Yes/No  
VKR

To

- 1.The II Additional District and Sessions Judge, Tindivanam.
- 2.The Inspector of Police,  
Mailam Police Station,  
Tindivanam, Villupuram.
- 3.The Public Prosecutor,  
High Court of Madras.



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**M.NIRMAL KUMAR, J.**

**VKR**

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