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CrI.O.P.No.10489 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2026

CORAM:

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

CrI.O.P.No.10489 of 2026

and

CrI.MP.No.7466 of 2026

P.Balasubramanian @ Balu

...Petitioner

Vs.

State rep. by,
The Inspector of Police,
Vigilance and Anti-Corruption,
Salem.

FIR No.13/AC/2011

...Respondent

Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, (BNSS), 2023, seeking to set aside the order dated 26.03.2026 made in C.M.P.No.19 of 2026 in Special C.C.No.92 of 2014 by the Special Judge, Special Court for trial of cases under Prevention of Corruption Act, Salem, by allowing this criminal original petition.

For petitioner : Mr.N.Manokaran

For respondent : Mr.S.Udayakumar, GA(Crl. Side)

ORDER

This criminal original petition has been filed seeking to quash the order dated 26.03.2026 made in C.M.P.No.19 of 2026 in Special C.C.No.92



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of 2014 by the learned Special Judge, Special Court for trial of cases under Prevention of Corruption Act, Salem.

2. Brief facts of the case are as follows:-

2.1 The petitioner is an accused facing trial in Special C.C.No.92 of 2014 before the learned Special Judge, Special Court for trial of cases under Prevention of Corruption Act, Salem, (for short “the Trial Court”) for the offences under Sections 7, 13(2) r/w. 13(1)(d) of the Prevention of Corruption Act.

2.2 The petitioner filed a petition under Section 311 of Cr.P.C., in C.M.P.No.19 of 2026, seeking to recall P.Ws.2, 6, 8 and 16. However, the trial court, *vide* order dated 26.03.2026, dismissed the said petition. Challenging the same, the petitioner has come up with this petition.

3. Learned counsel for the petitioner submitted that the petitioner filed the petition in C.M.P.No.19 of 2026 seeking to recall P.Ws.2, 6, 8 and 16, in order to prove his innocence by exposing the fact that no demand was made by the petitioner and that there was no delay on the part of the petitioner in processing the renewal application. However, the trial court, without considering the fact that the same is necessary in order to arrive at a

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fair decision, had dismissed the said petition, vide impugned order dated 26.03.2026, which is not sustainable. He further submitted that if the petitioner is not given an opportunity to cross-examine the aforesaid witnesses and to mark additional documents, he would be put to a great predicament. He also submitted that the petitioner is ready to pay sufficient costs for recalling witnesses and also undertakes to co-operate for the speedy disposal of the case. Accordingly, he prayed for setting aside the impugned dismissal order dated 26.03.2026.

4. *Per contra*, the learned Government Advocate (Crl. Side) appearing for the respondent submitted that the trial court, after careful consideration of the fact that the above witnesses have already been cross-examined in detail between 2016 and 2018 and that the petition under Section 311 of Cr.P.C., in C.M.P. No.19 of 2026 was filed by the petitioner when the matter was posted for judgment, that too, after a lapse of about 8 years from the date of cross-examination of the above witnesses, which is nothing but a tactic used by the petitioner-accused to delay the trial proceedings, had dismissed the said petition, which cannot be said to be erroneous.



5. This Court gave its careful consideration to the arguments advanced by the learned counsel on either side and perused the materials available on record.

6. Admittedly, it is a case arising out of offences under the Prevention of Corruption Act. Based on the complaint given by the de facto complainant, a case in Crime No.13/AC/2011 was registered as early as on 07.09.2011 and upon completion of the investigation, the final report was filed for the offences set out at paragraph no.2.1, supra in the year 2014.

7. On a perusal of the materials available on record, particularly the impugned order, it is seen that the prosecution has examined witness P.Ws.1 to 19 and marked Exs.P1 to P32 and M.O.1 to M.O.4. Further, P.W.2, the de facto complainant was examined in chief as early as on 15.12.2015 and she was cross-examined in part on the same day and was cross-examined in detail again on 12.01.2016; P.W.6 was examined in chief on 04.04.2017 and was cross-examined exhaustively on the same day; P.W.8 was examined in chief on 25.07.2017 and he was cross-examined on the very same day; and P.W.16 was examined in chief on 02.01.2018 and he was cross-examined on the same day and the entire prosecution side evidence was closed as early as on 12.09.2022. After questioning the petitioner/accused under Section 313(1)(b)

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of Cr.P.C., the case was posted for defence side evidence. However, as the petitioner-accused did not examine any witness on his behalf, the defence side evidence was closed on 07.11.2022. Then, the case was posted for arguments and oral arguments on behalf of the prosecution was made on 11.03.2025 and the written arguments was filed on 07.04.2025. Since the accused did not come forward to put forth defence side arguments, the case was posted for judgment on 12.02.2026, however, granting liberty to the petitioner/accused to argue the matter on or before 11.02.2026.

8. In such circumstances, the petitioner-accused file a reopen petition in C.M.P.No.11 of 2026 for the purpose of submitting his arguments orally as well as in writing and the trial court, considering the fact that though there had been certain lapses on the side of the petitioner, if the petitioner is not permitted to put forth his arguments, it will amount to a case of no defence, allowed the same and re-opened the case for arguments, at which stage, the petitioner filed the petition under Section 311 of Cr.P.C., seeking to re-call P.Ws.2, 6, 8 and 16 for further cross-examination, that too after a lapse of about 8 to 10 years from the date of cross-examination of the respective witnesses.



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9. As rightly observed by the trial court, if the petitioner/accused was *bona fide* in recalling the abovesaid witnesses for further cross-examination, he should have come forward with the petition to recall the witnesses along with the reopen petition. It is beyond the ken of this Court as to what prevented him from filing recall petition along with reopen petition and no reason whatsoever also has been assigned by the petitioner in this regard. The clever attempt made by the petitioner to initially file the reopen petition followed by recall petition after a decade from the date of cross-examination is nothing short of an attempt on his part to scuttle/stifle the prosecution. To be noted, even if the recall petition is allowed, the prosecution witnesses cannot be expected to recall what they had deposed a decade ago.

10. As rightly observed by the Trial Court, recalling a witness is an act related to the presentation of evidence and the stage of arguments occurs after the evidence is closed and a recall petition filed at a stage when the case is posted for judgment cannot be permitted, unless it is proved by the accused that but for such recall, the Trial Court will not be in a position to arrive at a just decision.



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11. Further, the case which is of the year 2014 emerges from the FIR of the year 2011 and the petitioner has successfully dragged on the case for about 12 years and the Section 311 petition filed by him, as already observed *supra*, is nothing but yet another attempt by him to protract the trial.

12. As held by the Supreme Court in *State vs. Shiv Kumar Yadav* reported in *(2016) 2 SCC 402*, a petition for recall cannot be allowed as a matter of routine. Such a petition should perform be substantiated by genuine reasons and a mere stereotyped averment to the effect that recall is necessary for arriving at a just decision of the case would not suffice. This Court perused the recall application. In the said recall application, no reason has been assigned as to why the petitioner was unable to recall the four witnesses whom he wants to recall now before the defence side witness was closed. The petitioner ought to have been vigilant enough in defending his case and cannot sleep over and wake up from slumber all of a sudden.

13. It is also worth pointing out that the impugned order dated 26.03.2026 dismissing the recall petition came to be passed only after indulgence shown by the trial Court on numerous occasions by holding that the said act of the petitioner/accused is nothing but a tactic to drag on the

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proceedings. It is well settled that the principles of natural justice require reasonable opportunity and not endless opportunity. In the case on hand, as observed earlier, the petitioner has been given a very long rope which he had not availed of. A litigant cannot take advantage of his own inaction and subsequently contend that he was denied fair hearing. Further, the Supreme Court, in a catena of decisions, held that Courts must ensure that criminal proceedings are not unduly delayed at the instance of parties.

14. In view of the foregoing discussion, this Court does not find any infirmity or perversity in the impugned dismissal order passed by the court below and, is therefore, not inclined to interfere with the same.

15. This criminal original petition stands dismissed accordingly. Consequently, the connected miscellaneous petition stands closed.

24.04.2026

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Neutral Citation: Yes/No



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To:

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1. The Special Judge,
Special Court for trial of cases under Prevention of Corruption Act,
Salem.
2. The Inspector of Police,
Vigilance and Anti-Corruption,
Salem.
3. The Public Prosecutor,
Madras High Court.



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A.D.JAGADISH CHANDIRA, J.

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