



Crl.O.P.No.14510 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 09.06.2026

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl. O.P. No. 14510 of 2026

and

Crl. M.P. No. 9300 of 2026

1.Udhayakumar
2.Vignesh

... Petitioners

Vs.

State Rep., by
The Inspector of Police,
Kadathur Police Station,
Gopichettipalayam,
Erode District.
(Crime No.138/2022)

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 to set aside the order dated 24.02.2026 in Crl.M.P.No.150 of 2026 in C.C.No.3 of 2023 on the file of Judicial Magistrate No.II, Gobichettipalayam and permit the petitioners to recall of PW1 to 5 & 7.

For Petitioners : Mr. K. Prabhakaran

For Respondent : Mr. R. Rajasekaran, Counsel for Government of Tamil Nadu (Crl.Side)



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ORDER

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This Criminal Original Petition has been filed to set aside the order dated 24.02.2026 in Crl.M.P.No.150 of 2026 in C.C.No.3 of 2023 on the file of the Judicial Magistrate No.II, Gobichettipalayam and to permit the petitioners to recall of PWs1 to 5 and 7 for further cross-examination.

2. The petitioners / A1 and A2 in C.C.No.3 of 2023 filed a petition under Section 311 Cr.P.C., in Crl.M.P.No.150 of 2026 seeking recall of Pws.1 to 5 and 7 for further cross-examination. The trial Court, by order dated 24.02.2026, dismissed the said petition. Aggrieved by the same, the present Criminal Original Petition has been filed.

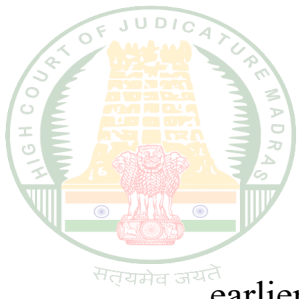
3. The contention of the petitioners is that there was some dispute between the petitioners and the witnesses with regard to property and monetary transactions, which have been projected as though the petitioners had trespassed into the shop of the defacto complainant's father-in-law and threatened, abused and assaulted them.



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3.1. It is further contended that, owing to ill-health, the learned counsel for the petitioners was unable to effectively cross-examine PWs.1 to 5 and 7, who were all examined on a single day, i.e., 14.03.2026. The subsequent witness, PW6 (Doctor), was cross-examined. PW.7 is the Investigating Officer. Since the cross-examination of PWs1 to 5 had not been completed, certain aspects relating to their evidence could not be put to PW.7 during his cross-examination. Consequently, PW.7 was not cross-examined on those aspects. The case is now posted on 11.06.2026 and the petitioners are ready to cross-examine Pws.1 to 5.

4. Per contra, the learned Government Advocate for the respondent strongly opposed the petition and submitted that all the witnesses have already been examined and the case stands posted for questioning under Section 313 Cr.P.C., on 11.06.2026. PW1 to PW5 are the injured eyewitnesses. PW7 is the investigating officer. It was further submitted that the petitioners had trespassed into the shop of the defacto complainant's father-in-law, abused and assaulted him, causing injuries and damage to the property.



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4.1. The learned Government Advocate further submitted that an earlier petition filed under Section 311 Cr.P.C., had been allowed by the trial Court on 29.04.2025. Pursuant thereto, all the witnesses were present before the Court on 18.11.2025 and waited throughout the day for cross-examination. However, the petitioners failed to cross-examine the witnesses. Thereafter, the present petition was filed without assigning any valid reason. Hence, the trial Court rightly dismissed the petition.

5. Considering the rival submissions and upon perusal of the materials available on record, this Court is inclined to afford one final opportunity to the petitioners, in view of their undertaking that they would cross-examine the witnesses on their appearance without seeking any further adjournment. The petitioners are directed to pay costs of Rs.2,000/- to each of the witnesses at the time of their appearance, either on the next hearing date, i.e., 11.06.2026 or on any subsequent date fixed by the trial Court.

6. It is made clear that upon the appearance of PWs.1 to 5 and 7, the petitioners shall cross-examine them on the same day. In the event of their failure to do so, no further opportunity shall be granted.



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7. In the result, this Criminal Original Petition is allowed.

Consequently, connected miscellaneous petition is closed.

09.06.2026

Neutral Citation: Yes/No
AT

Note: Issue order copy on 09.06.2026

To

1.The Judicial Magistrate No.II, Gobichettipalayam.

2.The Inspector of Police,
Kadathur Police Station,
Gopichettipalayam,
Erode District.

3.The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR, J.

AT

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