



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-06-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 14617 of 2026

R.Brinda Devi

..Petitioner(s)

Vs

1. R.Radhakrishnan
2. R.Sivasankar
3. N.Arumuga Gounder
4. A.Kasthuri
5. State Rep by, The Inspector of Police,
North Police Station,
Erode District.

..Respondent(s)

To set aside the order dated 30.01.2026 in Crl.M.P.No.5 of 2026 in S.C.No.64 of 2016 on the file of Honble SESSIONS MAGALIR NEETHI MANDRAM, (FAST TRACK MAHILA COURT) AT ERODE and thus render justice.

For Petitioner(s): M/s.N.Saravanan

For Respondent(s): Mr.A.Amarnath,
Government Advocate (Crl. Side), For R5



ORDER

This Criminal Original Petition has been filed seeking a direction to set aside the order dated 30.01.2026 in Crl.M.P.No.5 of 2026 in S.C.No.64 of 2016 on the file of the Sessions Magalir Neethi Mandram, (Fast Track Mahila Court), Erode.

2. The petitioner lodged a complaint against the respondents 1 to 4, pursuant to which a case was registered in Crime No.278 of 2013. On completion of investigation, a final report was filed and the same was taken on file in SC.No.64 of 2016. During the pendency of the trial, the respondents 1 to 4/accused, filed Crl.MP.No.5 of 2026 seeking to recall PW1 to PW9. The Trial Court by order dated 30.01.2026, partly allowed the petition, permitting to recall PWs.1, 2, 8 and 9 and dismissed in respect of PWs.3 to 7. Aggrieved by the said order, the present petition has been filed.

3. The contention of the petitioner is that PW1, the de facto complainant/victim and PW2, her mother, were examined in chief on 05.08.2016 and the remaining witnesses were examined during the year 2016. According to the petitioner, the application filed by the accused seeking recall of witnesses after nearly ten years is highly belated and ought not to have been entertained by the Trial Court.



4. This Court considered the submissions made and perused the materials available on record. It is seen that PW1 and PW2 were examined on 05.08.2016 and the other witnesses PWs.3 to 10 were examined on 06.8.2016. Thereafter, the petitioner herein had made certain allegations against the then Presiding Officer and lodged a complaint before the Vigilance Cell, High Court. Consequently, a vigilance enquiry was conducted, for which, the case bundles were called for from the Trial Court. Only on 02.11.2018, the case bundle was returned back to the Trial Court. Subsequently, the petitioner filed transfer petitions, due to which, the trial could not be proceeded. It is seen that though witness were not cross-examined then and there, but the delay for trial is equally contributed by the petitioner. Therefore, the application for recall cannot be rejected merely on the ground of delay.

5. It is further seen that PW1 was directed to produce the vehicle, which is the subject matter of the case. Since she failed to produce the vehicle, her chief-examination itself was not completed. Therefore, PW1 necessarily requires to be recalled for completion of her evidence. Unless the examination of PW1, who is the principal witness, is completed, effective cross-examination of PW2 cannot be undertaken. Hence, PW2 also requires to be recalled. Likewise, since the vehicle was not produced by PW1, the examination of PW9, the Special Sub Inspector of Police, who conducted preliminary investigation, could not be completed. Therefore, PW9 also requires to be recalled. PW8, who



registered the FIR, is likewise a material witness whose recall has been found necessary by the Trial Court. Accordingly, the Trial Court rightly permitted the recall of PWs.1, 2, 8 and 9.

6. Insofar as PWs.3, 5 and 7 are concerned, who are the Motor Vehicle Inspector, the Doctor and the Seizure Mahazar witness, they were not cross examined by the accused and no satisfactory explanation was offered for their failure to cross-examine these witnesses. Hence, the Trial Court rightly rejected the request to recall them. With regard to PW4 and PW6, both the witnesses had already turned hostile. Therefore, the Trial Court was justified in dismissing the petition insofar as PWs.3 to 7 are concerned.

7. In view of the same, this Court finds no reason to interfere with the impugned order passed by the Trial Court. Accordingly, this Criminal Original Petition is dismissed.

10-06-2026

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



To

1. Sessions Magalir Neethi Mandram, (Fast Track Mahila Court), Erode
2. The Inspector of Police,
North Police Station,
Erode District.
3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

PVS

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