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CRL OP No. 16703 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-07-2026

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THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL OP No. 16703 of 2026

and

Crl.M.P.no.11060 of 2026

1. Nagappan, S/o.Rathinam
2. Mohan, S/o.Krishnan,
1st and 2nd petitioners are Residing at
Gonar Street, Semmedu Village,
Vikravandi Taluk, Villupuram.
3. Athimulam, S/o.Krishnapillai,
Kosavan Kaduvetti Village,
Mambzhapattu Post,
Kandachipuram Taluk,
Villupuram District.
4. Nagammal, W/o.Nagappan,
Gonar Street, Semmedu Village,
Vikravandi Taluk, Villupuram.
5. Geetha, W/o.Mohan,
Gonar Street, Semmedu Village,
Vikravandi Taluk,
Villupuram District.

..Petitioners / Accused

Vs

State Rep by its, Inspector of Police,
Kanjapur Police Station,
Villupuram District.

..Respondent / Complainant



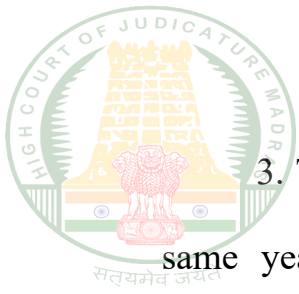
Prayer: This Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, praying to set-aside the order in Crl.M.P.No.131 of 2026 in C.C.No.50/2021 and pass such further or other order or orders as this Hon'ble Court may deems fit and proper in the circumstances of the case and thus render justice.

For Petitioner(s):	M/s.R.Raji
For Respondent(s):	Mr.R.Rajasekaran Government Advocate (Criminal Side)

ORDER

The Criminal Original Petition has been filed challenging the order passed in Crl.M.P.No.131 of 2026 in C.C.No.50 of 2021.

2. The gravamen of the prosecution case is that there was a dispute relating to agricultural land. The land originally belonged to the injured witnesses and was being cultivated by them. It is alleged that, during the course of the dispute regarding the cleaning and cultivation of the land, the accused persons abused the injured witnesses in filthy language. Thereafter, all the accused, including the second accused, Mohan and allegedly attacked the injured witnesses with their hands and bricks, causing grievous injuries as reflected in the charge sheet and the evidence on record. The prosecution further alleges that the accused claimed a share in the said land and objected to the injured witnesses cultivating the same.

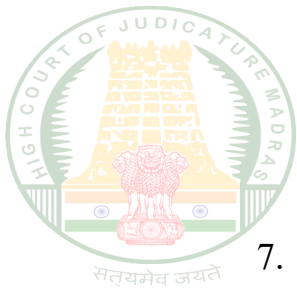


3. The occurrence is of the year 2021. The charge sheet was filed in the same year, and the prosecution witnesses, namely P.W.1 to P.W.4 were examined in the year 2024. At the time of their examination, the petitioner did not choose to cross – examine the witnesses. Subsequently, the petitioner filed an application under Section 311 of the Code of Criminal Procedure seeking recall of P.W.1 to P.W.4 for cross-examination.

4. The Trial Court, taking note of the delay and the absence of any valid reason for the failure to cross-examine the witnesses at the relevant point of time, dismissed the said application in Crl.M.P.No.131 of 2026 by order dated 23.02.2026. Aggrieved by the same, the present Criminal Original Petition has been filed.

5. The learned counsel for the petitioner submitted that the application for recall was necessitated due to a change of counsel. It was contended that unless an opportunity is granted to cross-examine the witnesses, grave prejudice and injustice would be caused to the petitioner.

6. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent submitted that the Trial Court had rightly exercised its discretion and rejected the application. According to him, the petitioner cannot be permitted to protract the proceedings indefinitely.



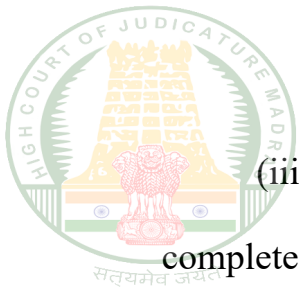
7. I have considered the rival submissions made by the learned counsel on either side and perused the materials available on record.

8. No exception can be taken to the reasoning contained in the impugned order dated 23.02.2026. However, considering the submission made by the learned counsel for the petitioner that the petitioner will cross-examine the witnesses on the very same day without seeking any adjournment and that appropriate costs may be imposed for securing the presence of the witnesses, this Court is inclined to grant one final opportunity in the interest of justice.

9. Accordingly, this Criminal Original Petition stands disposed of on the following terms:-

(i) The impugned order dated 23.02.2026 passed in Crl.M.P.No.131 of 2026 in C.C.No.50 of 2021 is set aside, and the said petition shall stand allowed subject to the conditions stipulated below.

(ii) The Trial Court shall issue summons to recall P.W.1 to P.W.4 for cross-examination. The witnesses shall be examined on the next hearing date, namely 10.07.2026, or on any other date fixed by the Trial Court for their appearance.



(iii) On the date of appearance of the witnesses, the petitioner shall complete the cross-examination without fail.

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(iv) The petitioner shall pay a sum of Rs.2,000/-(Rupees Two Thousand only) to each witness towards recall and appearance expenses. Thus, a total sum of Rs.8,000/- (Rupees Eight Thousand only) shall be deposited before the Trial Court.

(v) The Trial Court shall issue summons to the witnesses only upon such deposit of Rs.8,000/- by the petitioner.

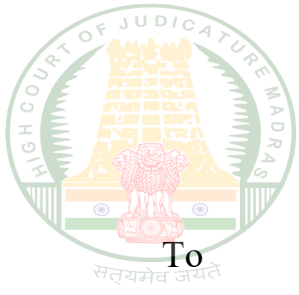
(vi) In the event of the petitioner failing to deposit the said sum of Rs.8,000/- within a period of ten (10) days from today, this Criminal Original Petition shall stand automatically dismissed without any further reference to this Court, and the Trial Court shall proceed with the case in accordance with law.

Consequently, the connected miscellaneous petition is closed.

01-07-2026

Neutral Citation: Yes/No

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To

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1. The Court of District Munsif-Cum-Judicial Magistrate,
Vikravandi.
2. Inspector of Police,
Kanjannur Police Station,
Villupuram District.
3. Public Prosecutor,
Madras High Court.



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D.BHARATHA CHAKRAVARTHY, J.

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