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CrI.O.P.No.29507 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2026

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.29507 of 2025

Alexander
S/o.Rajendiran

... Petitioner

Vs.

State represented by the
Inspector of Police
Vikravandi Police Station
Villupuram District
Cr.No.202 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of BNSS to set aside the order dated 24.02.2025 passed in CrI.M.P.No.5106 of 2024 in S.C.No.233 of 2022 before the learned Sessions Judge, Villupuram and to permit to recall and cross-examination of PW1 and PW11.

For Petitioner : Mr.M.Lourdu Savio

For Respondent : Mr.Leonard Arul Joseph Selvam
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the order passed by the learned Sessions Judge, Villupuram, dated 24.02.2025 in



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Crl.M.P.No.5106 of 2024 in S.C.No.233 of 2022 and to permit the petitioner to recall and cross-examine the prosecution witnesses viz., P.W.1 and P.W.11.

2. The petitioner has filed a recall petition under Section 311 of Cr.P.C., to recall the prosecution witnesses 1 to 9, 11, 12 and 17 for the purpose of cross-examination.

3. The Trial Court, by order dated 24.02.2026 in Crl.M.P.No.5106 of 2024 in S.C.No.233 of 2022, had allowed the petition permitting recall of P.W.2 to P.W.9, P.W.12 and P.W.17 and further directed the petitioner to pay cost of Rs.1000/- to each of the witnesses on the date of their cross-examination. As regards, P.W.1 and P.W.11, the petition was dismissed, as against which, the present petition has been filed.

4. The contention of the petitioner is that, in this case, the witnesses were not present before the trial Court on the date fixed for trial and later, the trial was adjourned on two occasions. P.W.1 to P.W.5 were examined on 05.02.2024. P.W.6 to P.W.9 were examined on 06.02.2024. P.W.11 and P.W.12 were examined on 10.04.2024 and P.W.17 was examined on 15.07.2024. However, the petitioner/accused was not in a position to



cross-examine the witnesses on these dates. Hence, he filed a petition under Section 311 of Cr.PC to recall the witnesses, however, the trial Court had granted permission to recall majority of the witnesses except P.W.1 and P.W.11. P.W.1 is the wife of the deceased and P.W.11 is the Head Constable, who has handed over the material objects for the purpose of chemical examination. Even though P.W.1 is not an eye-witness, her testimony is the foundation of the FIR and in order to prove the motive, her cross-examination is necessary. Likewise, P.W.11, the Head Constable, had produced the material objects to the Forensic Lab with a delay for the purpose of tampering the material objects, hence, the petitioner needs to cross-examine P.W.11. These are the vital aspects, that require elucidation. The case is now at the stage of defence side witnesses. To make an effective defence, the petitioner wants to cross-examine P.W.1 and P.W.11.

5. Learned Additional Public Prosecutor strongly opposed this petition and submitted that in this case P.W.1 to P.W.5 were examined on 05.02.2024, P.W.6 to P.W. 9 were examined on 06.02.2024, P.W.11 and P.W.12 were examined on 10.04.2024 and P.W.17 was examined on 15.07.2024 and it is almost two years since the closure of the prosecution case. The case is unable to reach its finality due to the filing of the



petition by the petitioner to cross-examine the witnesses 1 to 9, 11, 12 and 17 and the petitioner has not appeared before the trial Court and in fact, NBW was issued against the petitioner. Thereafter, he was secured on 26.08.2024. It is also to be noted that, during the cross-examination of the witnesses, the petitioner/accused was very much present and the witnesses were identified the petitioner and deposed against him. Now this petition has been filed and the trial Court had permitted recall the P.W.2 to P.W.9, P.W.12 and P.W. 17. However, the Trial Court had dismissed the petition against to recall P.W.1 and P.W.11, in view of the fact that the P.W.1 is the wife of the deceased and she is not an eye witness to the occurrence and P.W.11 is the Head constable, who has only handed over the material objects for the purpose of chemical examination and accordingly, the Trial Court has rightly dismissed the petition against P.W.1 and P.W.11.

6. Learned Additional Public Prosecutor further submits that the petitioner has threatened P.W.2 for giving deposition against the petitioner, and a case has been registered against the petitioner for the same. Therefore, it is clear that the petitioner has been using force and threatening the witnesses of the de-facto complainant. Hence, the Trial Court has rightly dismissed the petition against P.W.1 and P.W.11.



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7. Having considered the submissions made on either side and the materials placed before this Court, it is seen that the trial Court has permitted the petitioner to recall the witnesses P.W.2 to P.W.9, P.W.12 and P.W.17 and dismissed the petition in respect of P.W.1 and P.W.11. P.W.1 is the wife of the deceased, who, after heard about the death of the husband had given a complaint, however, she is not an eye-witness to the incident and also P.W.11 is the Head Constable, who had only produced the material objects for the purpose of chemical examination. It is also to be noted that the petitioner has also threatened the witnesses and in this regard, a case has also been registered against the petitioner. During the cross-examination of the witnesses, now the petitioner has filed this petition and claimed that prejudice would be caused to him. However, in view of the evidence deposed by P.W.1 and P.W.11, if the cross-examination of P.W.1 and P.W.11 is allowed, prejudice would be caused to them. Hence, this Court is not inclined to entertain this petition.

Accordingly, this Criminal Original Petition is dismissed.

23.03.2026

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M.NIRMAL KUMAR, J.

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To

- 1.The Inspector of Police, Vikravandi Police Station, Villupuram District.
2. The Sessions Judge, Villupuram.
- 3.The Public Prosecutor, High Court, Madras.

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