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Crl.O.P. No.2083 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-02-2026

CORAM

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

Crl. O.P. No.2083 of 2026

Ilaiya @ Ilavarasan

..Petitioner

Vs

State Rep by.
Station House Officer,
Katpadi Police Station,
Vellore (Crime No.667/2021)

..Respondent

Prayer: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita to set aside the order passed in Crl.M.P.No.3802 of 2025 in S.C.No.134 of 2024, dated 17.11.2025 passed by the learned Principal District and Sessions Judge at Vellore and recall PW1 and PW8 for cross-examination.

For Petitioner : Mr.G.Pandiyan

For Respondent : Mr.S.Santhosh
Government Advocate (Criminal Side)



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ORDER

The present Criminal Original Petition has been filed seeking to set aside the order passed by the learned Principal District and Sessions Judge at Vellore dated 17.11.2025 in Crl.M.P.No.3802 of 2025 in S.C.No.134 of 2024, dismissing the petition filed by the petitioner under Section 311 Cr.P.C read with Section 348 of BNSS and to re-call PW1 and PW8 for cross-examination.

2. The brief facts of the case are as follows :-

2.1. The petitioner is an accused facing trial in S.C.No.134 of 2024 before the learned Principal District and Sessions Judge at Vellore, for the offence punishable under Section 397 of IPC, in Crime No.667 of 2021, on the file of the respondent Police.

2.2. In the said case, the petitioner/accused filed a petition in Crl.M.P.No.3802 of 2025 under Section 311 Cr.P.C., to recall witnesses, PW1 to PW9 for cross-examination. The learned Sessions Judge, finding that the counsel for the accused/petitioner had not filed any defer petition and that no steps had been taken by the petitioner or his counsel for cross-examination of the witnesses, had dismissed the petition, vide order dated 17.11.2025. Aggrieved over the same, the present petition has been filed.

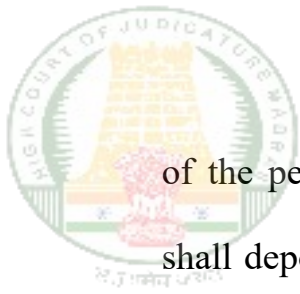


3. The learned counsel appearing for the petitioner submitted that PW1/*de facto* complainant and PW8/Investigating Officer are necessary witnesses for arriving at a just decision of the case. He would further submit that though there had been lapses on the side of the petitioner, he is now ready to cross-examine the witnesses on the same day of their appearance before the trial Court and he is also ready to pay the costs to the witnesses and if the impugned order is not set aside and the petitioner is not allowed to re-call PW1 and PW8, it will amount to a case of no cross. Hence, he prays to set aside the order dated 17.11.2025.

4. Per contra, the learned Government Advocate (Criminal Side) submitted that the case now stands posted to 06.02.2025 for further examination of witnesses. He would further submit that the respondent/police would be able to produce PW1/*de facto* complainant and PW8/Investigation Officer before the trial Court on a date fixed by the learned Trial Judge.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. Taking into consideration the fact that the petitioner has now restricted the re-call petition to PW1 and PW8, this Court is inclined to dispose



of the petition on imposition of costs and terms. Accordingly, the petitioner shall deposit Rs.2,000/- (in respect of PW1 alone) to the credit of S.C.No.134 of 2024 on the file of the learned Principal District and Sessions Judge at Vellore, on or before 06.02.2026. On such deposit being made, the learned trial Judge shall issue summons for appearance of PW1 and PW8 for the purpose of cross-examination. It is made clear that the petitioner shall cross-examine the witnesses on the same day of their appearance before the trial Court. In the event of the petitioner not cross-examining the witnesses, no further opportunity shall be granted to him.

7. The criminal original petition stands disposed of accordingly.

03-02-2026

Neutral Citation: Yes/No

MRN

Note: Issue Order Copy by 04.02.2026



To

1.The Station House Officer,
Katpadi Police Station,
Vellore (Crime No.667/2021)

2.The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

MRN

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