



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-01-2026

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP No.35055 of 2025

1. Poongothai
2. Kutty @ Kumar

Petitioners

Vs

1. The State represented by its
Inspector of Police,
CCB Police Station,
Vepery, Chennai.
Crime No.320/2018.

Respondent

PRAYER

Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita to set aside the order passed by the learned CCB Additional Metropolitan Magistrate at Egmore, in Crl.M.P.No.15183/2025 dated 17.11.2025 and further direct the learned CCB Additional Metropolitan Magistrate at Egmore.

For Petitioners: Mr.S. Monish Darvin

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

**ORDER**

This petition has been filed to set aside the order passed by the learned CCB Additional Metropolitan Magistrate at Egmore, in CrI.M.P.No.15183/2025 dated 17.11.2025 dismissing the petition filed under Section 348 of Bharatiya Nagarik Suraksha Sanhita, seeking recall of PW2, PW4, PW5, PW10 (Inspector of Police) and PW11 (Inspector of Police).

2. Learned counsel for the petitioners would submit that petitioners are accused facing trial for offence under Section 420 in STC No.9643 of 2021. The petitioners have filed application seeking recall of the witnesses for the purpose of cross-examination. However, the learned Trial Judge, finding that the earlier conditional order was not complied with by the petitioners, dismissed the case. He would further submit that though there had been lapses on the part of the petitioners, that was due to their poor financial status and the petitioners have now arranged for funds and they are ready to deposit the amount.

3. He would submit that if the witnesses are not recalled and they are not cross-examined, it would amount to a case of no defense causing grave prejudice to the petitioners and he would further submit that if a conditional order is passed, the petitioners are ready to comply with the condition.



4. This court enquired the learned Government Advocate (Crl. Side) and found that the witnesses are relevant witnesses and they have not been cross examined by the petitioners so far.

5. On instructions from the respondent police, learned Government Advocate (Criminal Side) informed that the respondent police will be able to produce the witnesses before this Court on any day fixed by the learned Trial Judge.

6. The Trial Court had earlier allowed the recall petition in Crl.MP.No.33733 of 2024 vide order dated 24.10.2024 seeking recall of the witnesses and the Trial Court finding that the said conditional order has not been complied, has dismissed the application.

7. I do not find any illegality in the order passed by the learned Trial Judge. Taking into consideration the fact that if the petitioners are not allowed to recall the witnesses and cross-examine them, it will cause grave prejudice to them, this Court is inclined to set aside the order dated 17.11.2025 in Crl.M.P.No.15183 of 2025, passed by the learned CCB Additional Metropolitan Magistrate at Egmore, on condition that the petitioners pay a sum of Rs.12,500/- on or before 09.01.2026, out of which Rs.2500/- each shall be paid to PW-1, PW-2 and PW-4 and Rs.5,000/- shall be paid to PW-5. On such payment, the



Trial Court shall discuss with the prosecution and fix a date for appearance of the witnesses. It is made clear that the petitioners shall cross-examine the witnesses on the day of their appearance before the Court. If the petitioners do not cross-examine the witnesses on the day of their appearance, they will lose further chance of cross-examination.

8. With the above directions, this criminal original petition stands disposed of.

05-01-2026

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

Note: Issue Order Copy by 06.01.2026.



To

1. The Inspector of Police
CCB Police Station, Vepery, Chennai.
Crime No.320/2018.

2. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.
mrn

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