



CrI.O.P.(MD)No.1989 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **03.02.2026**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

CrI.O.P.(MD)No.1989 of 2026

1.Palani @ Palanikumar
2.Babu @ Saththiyababu
3.Manikandan
4.Sudhakar

... Petitioners

Vs.

The State Rep. by
The Inspector of Police,
Kenikkarai Police Station,
Ramanathapuram District.
Crime No.208 of 2014.

... Respondent

PRAYER : Petition filed under Section 528 of BNSS, 2023 to call for the records pertaining to the proceedings in CrI MP No.2456/2025 dated 19.11.2025, in SC No.140/2022 by the Addl Sessions Court Ramanathapuram, Ramanathapuram District and to set aside the same.

For Petitioners : Mr.R.Balamuruganantham

For Respondent : Mr.S.Ravi

Addl. Public Prosecutor



Crl.O.P.(MD)No.1989 of 2026

ORDER

WEB COPY

This Criminal Original Petition has been filed to quash the proceedings in Crl MP No.2456/2025 dated 19.11.2025, in SC No.140/2022 by the Additional Sessions Court, Ramanathapuram, Ramanathapuram District.

2. The learned counsel for the petitioner submitted that the petitioners are the accused in pending SC No. 140 of 2022 on the file of the Additional Sessions Court, Ramanathapuram, Ramanathapuram District and they have filed an application before the trial Court under Section 348 of BNSS to recall PW1 to PW19. However, the same was rejected by the trial Court and hence this petition came to be filed.

3. The learned Additional Public Prosecutor appearing for the respondent submitted that the case pertains to an alleged murder that occurred in the year 2014, and the trial commenced in the year 2022. PW1 and PW2 were examined on 05.12.2022. PW3 and PW4 were examined on 15.12.2022. PW 5 to PW 8 were examined on 22.11.2022 and PW9 to PW 12 were examined on 04.01.2023, PW13 and PW14 were examined on 12.01.2023. PW15 and PW16 were examined 19.09.2024, PW17 and PW18 were examined on 17.10.2024 and lastly, PW19 was examined on 06.11.2024. None of the



Crl.O.P.(MD)No.1989 of 2026

witnesses have been cross-examined by the petitioners and only to protract the proceedings, the petitioner has filed this petition.

4. Heard the learned counsel on either side and carefully perused the materials available on record.

5. No doubt, this is a case of murder, which is pending before the trial Court. Having remained idle for a period of more than three years and not cross-examined the prosecution witnesses on the various dates when they were examined-in-chief, the petitioner is now seeking to recall PW1 to PW19 for cross-examination.

6. This Court is cautious to observe that allowing the petitioner to recall the witnesses at this stage would provide an opportunity to take advantage of the lapse of memory of the witnesses over passage of time. I do not find any merit in the application filed by the learned counsel for the petitioner, and I see no infirmity in the order passed by the trial Court.

7. Despite this Court being inclined to dismiss the petition, the learned counsel for the petitioner, in an alarming tone, insisted this Court that the



CrI.O.P.(MD)No.1989 of 2026

opportunity of fair trial should be given to the petitioners in a murder case and the chief examination of all the witnesses from PW1 to PW19 were completed in an enormous hurry by the trial Court without giving him an opportunity of cross examination, even before the petitioners engaged an advocate on their side. He also pointed out that only the investigating officer is yet to be examined and insisted for an opportunity for fair trial.

8. In reply, the learned Additional Public Prosecutor submitted that the trial was commenced as early as on 05.12.2022 and has continued for the past three years and only the Investigating Officer is yet to be examined. At this juncture, the submission made by the learned counsel for the petitioners seeking to recall the witnesses is wholly unwarranted.

9. The Hon'ble Apex Court in the case of ***P.Sanjeeva Rao vs. State of Andhra Pradesh***¹ has held as follows:-

“23. We are conscious of the fact that recall of the witnesses is being directed nearly four years after they were examined in chief about an incident that is nearly seven years old. Delay takes a heavy toll on the human memory apart from breeding cynicism about the efficacy of the judicial system to decide cases within a reasonably foreseeable time period. To that extent the apprehension expressed by Mr. Rawal, that the prosecution may suffer prejudice on account of a belated recall, may not

¹ 2012 (7) SCC 56



be wholly without any basis. Having said that, we are of the opinion that on a parity of reasoning and looking to the consequences of denial of opportunity to cross-examine the witnesses, we would prefer to err in favour of the appellant getting an opportunity rather than protecting the prosecution against a possible prejudice at his cost. Fairness of the trial is a virtue that is sacrosanct in our judicial system and no price is too heavy to protect that virtue. A possible prejudice to prosecution is not even a price, leave alone one that would justify denial of a fair opportunity to the accused to defend himself.”

10. In yet another case of ***Manju Devi vs. State of Rajasthan and Another***², the Hon'ble Supreme Court has held as follows:-

“13. Though it is expected that the trial of a sessions case should proceed with reasonable expedition and pendency of such a matter for about 8-9 years is not desirable but then, the length/duration of a case cannot displace the basic requirement of ensuring the just decision after taking all the necessary and material evidence on record. In other words, the age of a case, by itself, cannot be decisive of the matter when a prayer is made for examination of a material witness.”

11. Fully fortified by the judgments extracted supra, in order to ensure a fair trial, as claimed by the learned counsel appearing for the petitioners, this Court, while setting aside the impugned order dated 19.11.2025 in CrI. M.P. No. 2456 of 2025 in S.C. No. 140 of 2022 by the Additional Sessions Court,

² 2019 (6) SCC 203



Crl.O.P.(MD)No.1989 of 2026

Ramanathapuram, Ramanathapuram District, hereby directs the petitioners to pay a batta of Rs. 5,000/- (Rupees Five Thousand only) to each of the witnesses. It is made clear that the trial Court shall permit the petitioners to cross-examine the witnesses sequentially, one after the other, and the cross-examination of PW1 to PW19 shall be concluded expeditiously within a period of fifteen days.

10. With the above direction, this criminal original petition stands allowed.

03.02.2026

NCC : Yes / No
Index : Yes / No
Sm



Crl.O.P.(MD)No.1989 of 2026

TO:-

WEB COPY

1. The Additional Sessions Court, Ramanathapuram,
Ramanathapuram District.
2. The The Inspector of Police,
Kenikkarai Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.O.P.(MD)No.1989 of 2026

L.VICTORIA GOWRI, J.

Sm

Order made in
CrI.O.P.(MD)No.1989 of 2026

Dated
03.02.2026