



**CrI.O.P.(MD).Nos.11202, 10738 and 11786
of 2026**

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

CrI.O.P(MD)Nos.11202, 10738 and 11786 of 2026
and
CrI.M.P(MD)Nos.11239, 10812 and 11685 of 2026

CrI.O.P(MD) No.11202 of 2026:

1. R.Nithishkumar

2. Badrinarayanan Choudary @
Kota Badri Narayan Choudary

3. J.R.Venkatesh

4. S.Pragadeeswaran

.... Petitioners/Petitioners

Vs

State of Tamil Nadu,
Represented by
The Forest Range Officer,
Cumbum, Theni District.
(H.P.O.R.No.1 of 2014)

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to set aside the impugned order in Cr.M.P.No.15 of 2026, dated 13.03.2026 passed by the Judicial Magistrate, Uthamapalayam, Theni District and permit the petitioners to cross examine the prosecution witness P.W-2 and



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allow this petition.

For Petitioners : Mr.D.Balamuruga Pandi
For Respondent : Mr.P.Samuel Gunasingh
Counsel for State of TN(CrI.Side)

CrI.O.P(MD) No.10738 of 2026:

1. R.Nithishkumar
 2. Badrinarayanan Choudary @
Kota Badri Narayan Choudary
 3. J.R.Venkatesh
 4. S.Pragadeeswaran
- Petitioners/Petitioners

Vs

State of Tamil Nadu,
Represented by
The Forest Range Officer,
Cumbum,Theni District.
(H.P.O.R.No.1 of 2014)

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to set aside the impugned order in Cr.M.P.No.18 of 2026, in S.T.C.No. 325 of 2021, dated 08.04.2026 passed by the Judicial Magistrate, Uthamapalayam, Theni District and permit the petitioners to cross examine the prosecution witness P.W-3 and allow this petition.

For Petitioners : Mr.D.Balamuruga Pandi
For Respondent : Mr.P.Samuel Gunasingh



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Counsel for State of TN(Crl.Side)

Crl.O.P(MD) No.11786 of 2026:

1. R.Nithishkumar

2. Badrinarayanan Choudary @
Kota Badri Narayan Choudary

3. J.R.Venkatesh

4. S.Pragadeeswaran

.... Petitioners/Petitioners

Vs

State of Tamil Nadu,
Represented by
The Forest Range Officer,
Cumbum,Theni District.
(H.P.O.R.No.1 of 2014)

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the order dated 13.03.2026 passed in M.P.No.17 of 2025 in S.T.C.No.325 of 2021 on the file of the learned Judicial Magistrate, Uthamapalayam, Theni District, set aside the same, direct the learned Judicial Magistrate to defer the cross examination of P.W-3 until completion of recall and cross examination of PW-2, permit the petitioners to cross examine P.W-2 and P.W-3 on the same day or on such dates as may be fixed by the trial Court and pass such further or other orders as this Court may deem fit.

For Petitioners : Mr.D.Balamuruga Pandi

For Respondent : Mr.P.Samuel Gunasingh



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Counsel for State of TN(CrI.Side)

COMMON ORDER

A1 to A4 in S.T.C.No.325 of 2021, on the file of the learned Judicial Magistrate, Uthamapalayam, Theni District, have filed the present petitions challenging the order passed by the trial Court in CrI.M.P.No.15 of 2025, CrI.M.P.No.17 of 2025 and CrI.M.P.No.18 of 2026.

2. P.W.2 was chief examined on 29.01.2026 and he was not cross examined on the side of the accused persons. On the next date of hearing, on 18.02.2026 an application was filed under Section 348 of BNSS, seeking to recall P.W.2 in CrI.M.P.No.15 of 2025. When the said application was pending. Chief examination of P.W.3 was conducted on 13.03.2026 and on the said date accused persons have filed an application under section 265(3) of BNSS, seeking postponement of cross examination of P.W.3 till completion of cross examination of P.W.2.

3. CrI.M.P.No.15 of 2025 and CrI.M.P.No.17 of 2025 were dismissed by the learned Judicial Magistrate, Uthamapalayam on 13.03.2026. This has



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prompted the petitioners to file CrI.M.P.No.18 of 2026 seeking to recall P.W.3 for cross examination. This application came to be dismissed on 08.04.2026. Challenging all the three orders, the present petitions have been filed.

4. According to the learned counsel appearing for the petitioners, since the counsel for the accused was not present on 29.01.2026 they could not cross examine P.W.2 and immediately on the next date of hearing, namely on 18.02.2026. CrI.M.P.No.15 of 2025 was filed to recall P.W.2. In such circumstances, there was no delay on the part of the accused persons in filing application under Section 348 of BNSS. The other two applications have to be filed only because of the fact that CrI.M.P.No.15 of 2025 was dismissed on 13.03.2026.

5. Heard the learned counsel appearing for the petitioners and perused the materials available on record.

6. It could be seen from the narration of the facts recorded above, it is clear that the recall application for P.W.2 was dismissed while the petition to defer the cross examination of P.W.3 was pending. That apart, all these



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applications have been filed immediately on the next date of hearing.

7. Considering the immediate filing of the applications and in the interest of justice, this Court is of the considered opinion that the petitioners should be given one more chance. Therefore, the orders passed in CrI.M.P.No. 15 of 2025, CrI.M.P.No.17 of 2025 and CrI.M.P.No.18 of 2026 are set aside.

8. The petitioners are directed to file batta within a period of three days from the date of receipt of a copy of this order for recalling P.W.2 and P.W.3. The petitioners are directed to complete the cross examination on the date when P.W.2 and P.W.3 appear. It is made clear that no further adjournment should be granted to the petitioners for prolonging the cross examination.

9. Considering the fact that the case is pending from 2021 onwards, the learned Judicial Magistrate, Uthamapalayam, Theni District, is directed to complete the trial in S.T.C.No.325 of 2021 on or before **31.08.2026**.



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10. With the above said observation, these Criminal Original Petitions are allowed. Consequently connected Miscellaneous petitions are closed.

23.06.2026

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Judicial Magistrate,
Uthamapalayam,
Theni District.
2. The Forest Range Officer,
Cumbum, Theni District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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