



Crl.OP(MD) No.12760 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.06.2026

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.12760 of 2026
and Crl.MP(MD) No.12508 of 2026

Mayam Perumal

... Petitioner

Vs

State of Tamilnadu Rep by
Inspector of Police,
Ambasamudram Police Station,
Tirunelveli District.
Crime No. 290 of 2013..

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS Act, to call for the records relating to set aside the order passed in Crl.M.P. No. 3 of 2025 in S.C. NO. 590 of 2018 on the file of the learned IV Additional Sessions Judge, Tirunelveli, Tirunelveli District.

For Petitioner : Mr.K.Rajeshwaran

For Respondent : Mr.B.Arun
Counsel for State of TN(Crl.Side)



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ORDER

The present petition has been filed by the first accused in SC No. 590 of 2018 on the file of IV Additional Sessions Judge, Tirunelveli, Tirunelveli District seeking to set aside the order passed by the Court in Crl.M.P.No.3 of 2025, dated 14.08.2025, wherein, the application filed under Section 348 of BNSS., (311 of Cr.P.C.,) to recall PW1, PW2, PW9 and PW16 was partly allowed.

2.Perusal of the records reveals that the petitioner was arrayed as A1 along with nine other accused in Crime Number 290 of 2013. Since the petitioner was absconding, a Non-bailable Warrant was issued as against him and case against him was split up and Judgment was delivered on 17.07.2019, in which, A2 was convicted. Thereafter, the petitioner has appeared before the trial Court and filed a petition under Section 348 of BNSS., (311 of Cr.P.C.,) seeking to recall PW1, PW2, PW9 and PW16. The trial Court partly allowed the application with regard to PW9 and PW16 and dismissed the application with regard to PW1 and PW2 on the ground that PW1 and PW2 were chief examined in the year 2015 and therefore, they could not be recalled belatedly. Challenging the aforesaid order, the present petition has been filed by the petitioner.



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3.The learned counsel appearing for the petitioner submits that the case against the petitioner has been split up and trial has been taken up only now. In the said circumstances, when the trial Court has allowed to cross examine PW9 and PW16, the same yardstick ought to have been applied in respect of PW1 and PW2 also.

4.Heard the learned counsel appearing for the petitioner and perused the materials on record.

5.The trial Court has dismissed the application with regard to PW1 and PW2 on the sole ground that they had been chief examined on 01.12.2015 and the petitioner was responsible for the delay. In such circumstances, the application for recalling PW1, PW2 cannot be permitted.

6.I have perused the records, reveals that PW9 was chief examined on 02.12.2015 and was cross examined on 29.03.2016 and the date on which PW16 was chief examined has not been mentioned in the order. When the trial Court has permitted the petitioner to cross-examine PW9 and PW16, PW1 and PW2, who stand on the same footing may also to have been permitted to be cross-examined by the petitioner.



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7.In view of the above facts, this Court passes the following order:

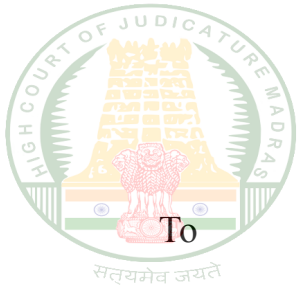
a) Order passed by the trial Court is partly set aside and Crl.M.P.No.3 of 2025 stands allowed with regard to PW1 and PW2 also;

b) The petitioner is directed to file necessary batta within a period of three days from the date of receipt of a copy of this order. It is made clear that the petitioner shall complete the cross examination on the date of appearance of the witnesses. No further opportunity shall be granted to the petitioner.

8.With the above observations, this Criminal Original Petition stands partly allowed. Consequently, connected miscellaneous petition is closed.

29.06.2026

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
PNM



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1. IV Additional Sessions Judge, Tirunelveli, Tirunelveli District

2. The Inspector of Police,
Ambasamudram Police Station,
Tirunelveli District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

PNM

ORDER MADE IN
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