

**IN THE COURT OF XXXV METROPOLITAN MAGISTRATE COURT (FTC-II),
EGMORE AT ALLIKULAM, CHENNAI – 03.**

Present : Dr. J. Stalin, M.L., Ph.D.,
XXXV Metropolitan Magistrate,
XXXV Metropolitan Magistrate Court(FTC-II)
Crl.M.P. No.15872/2025 in S.T.C.No.12031/2024

Dated : *Thursday 13th day of November 2025.*

Mrs.D.Lakshmi

Rep by herlawful Power of Attorney Agent

Mr.S.Deepak

.....Petitioner/Complainant

/Vs/

Mr.Senthilkumar Rajamanickam

.....Respondent/Accused

Order

Petition is filed u/s311 Cr.P.C/348 of BNSS r/w145 of N.I.Act

1. Gist of facts of the Complaint: -

The petitioner respectfully submits that during the cross-examination the accused raised a question in respect of earlier loan given by the complainant and payment of 2 lakhs on 10.12.2021 to the credit of Sri Bavani Speciality Products. To prove the above, Kotak Mahindra Bank statement from the year 01.11.2019 to 10.12.2021 is required to be file in the above case as an documentary evidence. Hence it is just and necessary to reopen the prosecution side evidence and permit the complainant to file additional proof affidavit along with additional documents as a rebuttal evidence. Therefore, the petitioner prays before this court to allow this petition.

2. Gist of facts of the Counter: -

The respondent respectfully submits that in this case the same prayer the petitioner filed a petition before this court in Crl.M.P.No.13075 of 2025 and the same was dismissed on 13.10.2025 after that the petitioner fulfill the gaps they filed the petition is not maintainable. Therefore, the respondent prays before this court to dismiss this petition.

3. Points: -

a) Heard both sides. This petition is filed for reopen the prosecution side evidence and to file additional proof affidavit along with additional documents. It is strongly objected by the respondent. On perusal of record, the case is in the stage of argument. Further, the petitioner filed a petition before this court in Crl.M.P.No.13075 of 2025 and the same was dismissed on 13.10.2025 as there is no single averment has been

disclosed in that petition. Again the petitioner is filed this present petition for the same prayer is not maintainable. It clearly established that this petition is filed only for the purpose of fill up the lacuna in the present case as well as delay and drag on the proceedings.

b) Further as per principles laid down by our ***Hon'ble Supreme Court of India in Rajaram Prasad Yadav Vs State of Bihar and another - (2013) 14 Supreme Court cases 461*** –

“ Para 17.12 – The additional evidence must not be received as a disguise or to change the nature of the case against any of the party.

Para 17.14 – The power under section 311 CrPC must therefore, be invoked by the court only in order to meet the ends of justice for strong and valid reasons and the same must be exercised with care, caution and circumspection. The court should bear in mind that fair trial entails the interest of the accused, the victim and the society and therefore the grant of fair and proper opportunities to the persons concerned must be ensured being a constitutional goal, as well as a human right.”

c) On relying upon the Hon'ble Supreme Court of India held in **AG Vs. Shiv Kumar Yadav, 2016(1) LW (CrI) 561** “Recall of witness after recording statement u/s. 313 whether permissible, plea of defence counsel not competent. Witness was cross-examined by counsel engaged by accused, statement of accused u/S. 313 recorded, accused filed application for recall of 28 prosecution witnesses by engaging another counsel. Held, Recall is not a matter of course, discretion given to court to be exercised judiciously, with reasons. Not a single specific reason assigned by High Court as to how recall of as many as 13 witnesses was necessary. Mere observation that recall was necessary ' for ensuring fair trial' not enough”.

d) And relying upon Hon'ble Supreme Court of India held in **Neha Begum and others Vs. The State of Assam and Another, dated 19.01.2024 LW (CrI) 561/2021** “On a perusal of the subject application filed by the petitioners in the trial Court by invoking the provisions under Section 231(2) read with Section 311 CrPC, we find that other than a vague aspersion that the erstwhile lawyer engaged by the petitioners did not conduct proper cross-examination of the witnesses, no such specific ground was alluded on behalf of the accused petitioners which could be considered to be a valid ground for the trial Court to invoke the power under Section 311 CrPC. Apparently thus, the prayer made by the petitioners in the application to recall and re-examine the witnesses was nothing but an attempt to fill in the lacuna. There is nothing on record to suggest that non summoning of the witnesses for further cross examination could cause grave prejudice the accused and that such a cause of action was essential for a just decision of the case.”

e) On perusal of above said principles of recall is not a matter of right, discretion given to court to be exercised judiciously, with reasons. Again and again the petitioner filing

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petition for the same prayer is not maintainable. Hence this court is of considered view, that the petition seeking reopen the prosecution side evidence to file additional Proof Affidavit along with additional document deserves to be dismissed.

In the result, this petition is dismissed.

Dictated to the Steno-Typist, transcribed by her, corrected and pronounced by me in the open Court, this the ***Thursday 13th day of November 2025.***

XXXV Metropolitan Magistrate,
XXXV Metropolitan Magistrate Court/FTC – II,
Egmore @ Allikulam, Chennai.