

**IN THE COURT OF THE FAST TRACK SPECIAL JUDGE, HARIPAD**

Present:- Hareesh G., Special Judge

Tuesday, the 3<sup>rd</sup> day of February, 2026

**Crl.M.P. No.02/2026 in S.C. No.440/2024**

(Crime No.1172/2014 of Vallikunnam Police Station)

- Petitioners/accused : 1. Savithri, aged 38/14,  
W/o Anukumar, Sreekrishnalayam,  
Elippakkulam Muri,  
Kattanam Village.
2. Anukumar, aged 44/14,  
S/o Kochunanu, Sreekrishnalayam,  
Elippakkulam Muri,  
Kattanam Village.
3. Suma, aged 27/14,  
W/o Ajayakumar, Ajaya Bhavanam,  
Elippakkulam Muri,  
Kattanam Village.

*(By Adv. Smt.R. Hema)*

Cr.Petitioner/Complainant : State of Kerala - represented by S.I. of  
Police,  
Vallikunnam Police Station.  
*(by Special Public Prosecutor, Haripad)*

Application : Re-opening of prosecution evidence  
u/S.348 of Bharatiya Nyaya Suraksha  
Sanhita, 2023.

Order : Dismissed.

This Crl.M.P having been finally heard on 31/01/2026 and the Court on this day passed the following:-

**ORDER**

- (1) This is an application submitted by the counsel for the accused u/S.348 of Bharatiya Nyaya Suraksha Sanhita, 2023 with a prayer to recall PW6.
- (2) The facts stated in the application are as hereunder: PW6 in this case was examined on 30/12/2025, but some more facts are to be elicited from the said witness. It is highly necessary to elicit certain other facts also from the said witness. Therefore, PW6 is to be examined again. Hence, summons is to be issued to PW6. Hence, the application.
- (3) From the side of the prosecution, no objection was raised against the application.
- (4) The application is moved by the counsel for the accused persons in this case. The accused are facing trial for their commission of the offence punishable u/S.324, 341 r/W S.34 of the IPC and S.23 of the Juvenile Justice (Care & Protection of Children) Act.
- (5) The prosecution allegation is that at 08.00 pm on 25/11/2014, the accused persons manhandled CW1 with iron bar and knife. In the said incident, the accused also beat CW2, the daughter of CW1 and thereby committed the said offences.

- (6) The trial of the case has been completed and the present application is moved after the examination of the accused persons u/S.313(1)(b) of the Cr.PC. PW6, the investigating officer testified before the Court in accordance with the final report filed by him. As per the application, PW6 is to be recalled from eliciting out some more facts from him.
- (7) Here, it is to be noted that the accused persons have got ample opportunities to cross-examine PW6. But, due to the laches on the part of the counsel for the accused, PW6 was not cross-examined in detail. Here, the counsel for the accused have no case that she had no sufficient opportunity to cross-examine PW6. It is well settled that the laches on the part of the defence counsel is not a ground to recall a witness. Power to re call witness must be exercised judiciously and not capriciously or arbitrarily, as any improper or capricious exercise of such power may lead to undesirable results. From the application, it is not discernible for what reason the counsel for the accused could not cross-examine PW6 effectively. It is also well settled that the prosecution evidence cannot be reopened for mere asking, unless sufficient and cogent reason are shown, a witness cannot be recalled.
- (8) In this case, the application contained only bald statements, which is not sufficient enough to invoke the Court to reopen the evidence

and recall a witness. The application does not show sufficient reason for reopening the prosecution evidence. Hence, it is found that the application is devoid of merit and is liable to dismissed.

In the result, **the application is dismissed.**

*(Dictated to the Confidential Asst. typed by her directly on the computer corrected and pronounced by me in open court on this the 3<sup>rd</sup> day of February, 2026).*

Sd/-  
**Special Judge,  
Fast Track Special Court, Haripad.**

-//True Copy//-

Special Judge,  
Fast Track Special Court, Haripad.