

IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE, MATTANCHERRY

Present: Sri. M.K. BALRAM, Judicial First Class Magistrate

Dated this the 29th day of November, 2025

C.M.P 1623/2025 in C.C No.1154/2017

Petitioner/1st Accused : Shahaban K.S., aged 26, S/o.Shaheer
K.H., Marapparambil House,
Chirattappalam Road, Near Surya Tuition
Centre

(By Advocate Thomas Michael)

Respondent/Complainant : State of Kerala represented by Sub
Inspector of Police, Mattancherry Police
Station in Crime No.11/2015 of
Mattancherry
(By Asst.Public Prosecutor, Mattancherry)

Offences : 342, 451, 294(b), 506 (ii) r/w 34 of IPC

Order : Petition stands allowed

This petition having heard on 29.11.2025, the court on this day passed the following.

ORDER

This is an application filed by the counsel for first accused to recall PW2.

2. The averments in the petition in brief are as follows: CW1 was examined as PW2 and he was not cross examined from the side of first accused. It is highly essential to cross examine PW2. Hence, the application is filed to cross examine PW2.

3. Even though written objection is not filed, learned Assistant Public Prosecutor objected the application stating that examination in chief of PW2 was done on 03.10.2019 and he was cross examined on 21.05.2024. The learned Assistant Public Prosecutor further submitted that even though the first accused was given an opportunity to cross examine PW2, the counsel for the first accused chose not to cross examine PW2 whereas learned counsel for other accused cross examined PW2 on 21.05.2024.

4. Heard both sides.

5. The following points arise for consideration:

1. Whether the petition is liable to be allowed?
2. Order?

Point No.1

6. The offences alleged against the petitioner is punishable u/s.342, 451, 294(b), 506 (ii) r/w 34 of IPC. This case is of the year 2017. The records reveal that CW1 was examined as PW2 on 03.10.2019 and further examination in chief was adjourned for the identification of accused. Subsequently, PW2 was examined in chief on 20.10.2022 wherein PW2 identified the third and fourth accused and subsequently further examination in chief was adjourned for identification of other accused. On 21.05.2024, accused Nos.2 to 3 were present whereas first accused and his counsel chose to remain absent and on that day, PW2 was cross examined by the learned counsel for A2 to A4. Thereafter PW2 and PW3 were examined in this case and presently this petition is filed by the learned Counsel for first accused to recall PW2.

7. It is evident from the records that sufficient opportunity was given for the first accused to appear before the Court for the purpose of identification of accused. But, first accused chose not to appear and even his learned Counsel also chose not to appear on 21.05.2024. However, I am of view that PW2 being the crucial witness in this case, one chance can be given to the petitioner to cross examine PW2, in the interest of justice. This point is answered in favour of the petitioner.

Point No.2

8. In the light of the findings in Point No.1, the petition is liable to be allowed.

In the result, the petition is hereby allowed as follows:-

PW2 is hereby recalled. Issue summons to PW2.

Dictated, corrected and pronounced in open court on this the 29th day of November, 2025

Sd/-

**Judicial I Class Magistrate,
Mattancherry.**