IN THE COURT OF PRINCIPAL SESSIONS JUDGE, CHENNAI

Present: Thiru.S.Karthikeyan, M.A., M.L., M.Sc., P.G.D.C.F.Sc., P.G.D.D.F.,

Principal Sessions Judge.

Wednesday, the 21st day of January, 2026.

Crl.M.P.No. 1 /2025

in

C.C. No. 05/2017

in

ECIR/CEZO/07/2015

The Assistant Director,
Directorate of Enforcement,
5th & 6th Floor, BSNL Administrative Building,
No. 2, Kush Kumar Road,
Nungambakkam, Chennai .. Petitioner/complainant

Vs.

1. Shri. C. Manoharan
   S/o. Shri. Chinnasamy,
   577, Trichy Road,
   Singanallur, Coimbatore – 641 005.

2. Tmt. M. Thenmozhi,
   W/o. Shri. C. Manoharan,
   577, Trichy Road,
   Singanallur, Coimbatore – 641 005.

3. Smt. C. Lakshmi
   W/o. Shri. K.Chidambaraswamy
   247, Karur Main Road,
   Moolanur, Tirupur – 638 106. ..Respondents/Accused no. 1 to 3

This petition is coming on this day before this court for hearing in the presence of M/s. Rajnish Pathiyil, Special Public Prosecutor, Directorate of Enforcement, Counsel for the petitioner and M/s. A. Madhumathi, C.P. Palanichamy, M. Mohamed Muzammil, counsel for the respondents and upon hearing them, this Court delivered the following.

ORDER

1. This petition is filed u/s. 311 of Cr.PC to permit the petitioner to examine the witnesses as an additional witnesses mentioned in the petition.

2. The prosecution has come up with the present application stated as follows:

(i) A Charge sheet had been filed by the Additional Superintendent of Police, CBI, ACB before the Hon'ble Chief Judicial Magistrate, Coimbatore against A1, A2 and A3 and one other, wherein A2 Smt. M. Thenmozhi and A3 Smt. C. Lakshmi are the Director of M/s.Nitish Tools Private Limited, committed the offences under Section 120-B of IPC, r/w Section 420 and 471 of IPC, 1860 for causing wrongful loss to the Customs Department and wrongful gain to themselves on account of Customs Duty evasion in the import of Carbide inserts imported vide 8 bills of entry during the period from 2009-2011.

(ii) The Complainant Department had filed Complaint under the provisions of PMLA,2002, on 31.03.2017, in ECIR No.07/2015 dated 11.05.2015, as there is a prima-facie case of commission of offence of Money laundering by the Accused and taken cognizance as C.C.No.5 of 2017 is pending on the file of this Court.

(iii) The complaint itself, only one witness Shri. V. Karthikeyan, Assistant Director, Directorate of Enforcement, Chennai was included in the present case. However, during the initial investigation of the above-mentioned case, the Complainant department examined persons who are connected to the case, and their statements under Section 50 of PMLA 2002 are also recorded and the same was mentioned and filed in the prosecution complaint. However, inadvertently these persons were not cited as prosecution witness in the complaint filed. The officer who registered the FIR, charge sheet, SRO, Singanallur, Yashwanthpura, Moolanur, Officials of Canara Bank, officer who recorded ECIR, officer who issued PAO and filed OC, and Shri K. Chidambaraswam who is the husband of A3 and father of A2 and certain other witness are required to be examined as witness in this case, who are essential witness to unfold the true story of the entire incident and for reaching a just decision in the above case. No prejudice would be caused to either of the parties if the said witnesses are called. Hence, call for the above witnesses and examination is necessary for the fair disposal of the case.

3. The respondents in its counter stated as follows:

(i) The Petitioner/Complainant had filed the present private complaint against the Respondents/Accused U/s.45 R/W.3 &4 of the Prevention of Money Laundering Act. After the delay for nearly about 8 years, the Petitioner/Complainant suddenly filed this petition u/s.311 Cr.P.C. to include additional witnesses. The Petitioner/Complainant filed this Petition u/s.311 Cr.P.C. to include 7 Additional Witnesses in the present case on hand i.e. (I) Shri. S.Jaikumar, Additional SP, CBI, (ii) The Sub Registrar of Singanallur, Coimbatore, (iii) The Sub Registrar of Moolanur, Dharapuram, (iv) The Sub Registrar of Yeshwanthpur, Bangalore, (v) The Branch Manager, Canara Bank, Coimbatore (vi) Shri.K.Chidambarasamy, husband of A3 and father of A1 and (vii) Mrs. N. Ananthle, Deputy Director, Director of Enforcement.

(ii) The Petitioner/Complainant came to be field after 8 years, and no reason was given in the Petition for condoning such a long and unexplained delay. This by itself will establish the lethargic and unprofessional attitude of the Petitioner/Complainant towards the court of law. The act of non-including the witnesses at the time of filing the complaint, will clearly establish that the entire complaint was came to be filed on non-application of the mind and out of negligence act of the Petitioner/Complainant and only to fill up a lacuna in the case of the prosecution, or of the defence, or to the disadvantage to the opposite party. Hence, the respondents prays to dismiss the petition.

4. The petition and counter perused. Records perused.

5. Point for consideration:

Whether the witnesses is to be recalled on the side of the prosecution or not?

6. Answer:-

6.1. The learned S.P.P submitted that a Charge sheet had been filed by the Additional Superintendent of Police, CBI, ACB before the Hon'ble Chief Judicial Magistrate, Coimbatore against A1 to A3 and one other, wherein A2 & A3 are the Director of M/s. Nitish Tools Private Limited, have committed the offences under Section 120-B of IPC, r/w Section 420 and 471 of IPC for causing wrongful loss to the Customs Department and wrongful gain to themselves on account of Customs Duty evasion in the import of Carbide inserts imported vide 8 bills of entry during the period from 2009-2011.

6.2. The learned S.P.P further submitted that the Complainant had filed Complaint under the provisions of PMLA,2002, on 31.03.2017, in ECIR No.07/2015 dated 11.05.2015, as there is a prima-facie case of commission of offence of Money laundering by the Accused and taken cognizance as C.C.No.5 of 2017 is pending on the file of this Court. In the complaint, only one witness Shri. V. Karthikeyan, Assistant Director, Directorate of Enforcement, Chennai was included. However, during the initial investigation of the above-mentioned case, the Complainant department examined persons who are connected to the case, and their statements under Section 50 of PMLA 2002 were also recorded and the same was mentioned and filed in the prosecution complaint. However, inadvertently these persons were not cited as prosecution witness in the complaint filed.

6.3. The learned S.P.P further submitted that the officer who registered the FIR, charge sheet, SRO, Singanallur, Yashwanthpura, Moolanur, Officials of Canara Bank, officer who recorded ECIR, officer who issued PAO and filed OC, and Shri K.Chidambaraswam who is the husband of A3 and father of A2 and certain other witness are required to be examined as witnesses, who are essential witness to unfold the true story of the entire incident and for reaching a just decision in the above case. No prejudice would be caused to either of the parties if the said witnesses are called. Hence, the learned S.P.P prays for permission to examine those witnesses for the fair disposal of the case.

7. The learned counsel for the Accused submitted that the Petitioner/Complainant had filed the present private complaint against the Respondents/Accused U/s.45 r/w. Section 3 & 4 of the Prevention of Money Laundering Act. After the delay of nearly about 8 years, the Petitioner/Complainant suddenly filed this petition u/s.311 Cr.P.C. to include additional witnesses. The Petitioner/Complainant filed this Petition to include 7 Additional Witnesses in the present case on hand i.e. (I) Shri. S.Jaikumar, Additional SP, CBI, (ii) The Sub Registrar of Singanallur, Coimbatore, (iii) The Sub Registrar of Moolanur, Dharapuram, (iv) The Sub Registrar of Yeshwanthpur, Bangalore, (v) The Branch Manager, Canara Bank, Coimbatore (vi) Shri.K.Chidambarasamy, husband of A3 and father of A1 and (vii) Mrs. N. Ananthle, Deputy Director, Director of Enforcement.

8. The learned counsel for the Accused further submitted that the Petitioner/Complainant came to be field after 8 years, and no reason was given in the Petition for condoning such a long and unexplained delay. This by itself will establish the lethargic and unprofessional attitude of the Petitioner/Complainant towards the court of law. The act of non-including the witnesses at the time of filing the complaint, will clearly establish the entire complaint was came to be filed on non-application of the mind and out of negligence act of the Petitioner/Complainant and only to fill up a lacuna in the case of the prosecution, or of the defence, or to the disadvantage to the opposite party. Hence, the learned counsel for respondents prays to dismiss the petition.

9. This Court has given its thoughtful consideration to the rival submissions put forth by either side. On careful perusal of records, it is found that the Directorate of Enforcement has filed this Complaint for the offences punishable u/s. 3 and 4 of Prevention of Money Laundering Act which was taken on file in CC.No. 5/2017. Now, in the complaint, the complainant shown as the prosecution witness. Though the case was taken on file in the year of 2017 itself, the charges could not be framed due to the stay granted by the Hon'ble High Court of Madras. The charges were framed on 24.11.2025. When the matter was listed for trial fixing, now the prosecution has come up with the present application.

10. According to the prosecution, the complainant cited only one witness in the complaint. According to them, to establish the case of the prosecution, the list of witness 1 to 7 mentioned in the petition are to be examined. Though the respondent contended that no reasons was given for filing this application after 8 years, this court is of the considered view that merely because of delay, the prosecution shall not be deprived of its opportunities

to prove its complaint. This court is of the considered view that the parties to the litigation are to be given full and fair opportunities to put forth their case through the witnesses. The prosecution is expected to prove its case beyond all reasonable doubts as against the Accused herein. The trial is not yet commenced. The examination of witnesses by the prosecution will not cause any prejudice to the Accused as the Accused has right of cross examination. Therefore, this court is inclined to permit the prosecution to examine the witnesses cited in the petition on the side of the prosecution.

11. In the result, this petition is allowed.

Dictated to Steno-typist, typed by him directly, corrected and pronounced by me in open court this the 21st day of January, 2026.

KARTHIKEYAN SHANMUGAM

Digitally signed by KARTHIKEYAN SHANMUGAM

Principal Sessions Judge

Chennai