

IN THE COURT OF THE JUDICIAL MAGISTRATE, TIRUCHENGODE

Present: Thiru. P. Rangaraj, B.A.,B.L.,
Judicial Magistrate, Tiruchengode.

Wednesday the 13th day of August 2025

M.P.No.22/2025

in

C.C.No.166/2021

- 1) Banumathi,
W/o. Anbarasu,
- 2) Boopathiraja,
S/o.Palanisamy,
- 3) Kumar,
S/o.Muthusamy,
- 4) Anbarasu,
S/o.Vellappagounder.

....Petitioners/Accused

/Vs/

State Represented by :
Sub Inspector of Police,
Tiruchengode Rural P.S.
Cr.No.326/2018.

....Respondent/Complainant

This petition came before this Court for final hearing in the presence of Assitant Public Prosecutor Tmt. A. Udhayabanu, B.com.,B.L., Grade II, representing for Respondent and Advocate Thiru. R. Jothinathan representing for Petitioners/Accused, upon hearing both sides and upon perusal of records and available materials this Court delivers the following

ORDER

1) This petition is filed by the petitioner U/s.311 of Cr.P.C for recall of PW1 and to examine on their side. The petitioners submitted that they were charged for offence U/s.294(b), 323, 326, 506(2) of IPC by the Respondent police herein on Cr.No.115/2020. The Petitioners stated that the PW1 was examined on 20.09.2024, but due to unavoidable circumstances the petitioner/Accused could not cross examined on

that day. Now the petitioners/Accused indented to cross examination of PW1 by the Accused. The above said PW1 is the material witness and their non examination will cause prejudice to the petitioners/accused. Hence, the petitioner filed this petition to recall the PW1 and for cross examination.

2) On the other side, The Respondent objected to allow this petition by stating that the above said case is posted today for further witnesses of prosecution. At this stage the petitioner/Accused filed the above said petition to recall the PW1 who was examined on 20.09.2024 and on the same day ample opportunity was given to defence counsel to cross examine. Despite of that in order to drag on the proceedings after the lapse of 11 months the petitioner chose to file this petition before this Court. The petitioner/Accused have not assigned any valid or acceptable reason for delay in filing this petition and this petition is liable to be dismiss at any cost. The Petitioner filed this petition only for the purpose of drag on the Case proceedings. Its further submits that **“as per 2021 SAR (Cri) 396, V.N.Patil – Vs. K. Niranjan Kumar & other (SC) Para 18 At the same time, the discretionary power vested under section 311 Cr.P.C. has to be exercised judiciously for strong and valid reasons and with caution and circumspection to meet the ends of justices”**. Hence, the Learned APP prays to dismiss this Petition.

3) Heard both sides and considering the petition and this petition filed after lapse of 11 months hence in order to provide fair opportunity to the petitioner and also considering the delay in filing this petition this court is inclined the to allow this petition in condition that the petitioner should pay a cost of Rs.1000/- to the PW1 when he appear before this court and cross examining PW1 on the same day without fail.

In the result, Petition Allowed.

Judicial Magistrate,
Tiruchengode.