IN THE COURT OF THE JUDICIAL MAGISTRATE, KOMARPALAYAM

Present : Tmt.A.K.Padmapriya, B.Sc, M.L.,
Judicial Magistrate, Komarapalayam

Saturday, the 07th day of February – 2026

MP.No.16/2026 and MP.No.17/2026 in STC.No.82/2023

V.G.Palanisamy
M/s.Sri Shanmuga Auto Service ... Petitioner / Complainant

//vs//

M/s.Sri Sendraya Perumal Transports,
Rep by Partner Muthuvel and others …. Respondent/Accused

Having heard this petition in the presence of **Thiru.L.Dakshinamoorthy,** the learned counsel for the petitioner and **Thiru.G.Gunasekaran,** the learned counsel for the respondent and on perusal of the records and having stood over for consideration of this application till date, this court on merit doth the following:

COMMON ORDER

The petitioner had filed this application under section 311 of the code of Criminal Procedure to recall PW1 for the marking of documents on petitioner side.

GIST OF THE PETITION:

The petitioner is the complainant. The petitioner have been running BPCL Retail Outlet (Petrol Bunk) by selling all kinds of Petroleum Products under the name and style of " Sri Shanmuga Auto Service" at Kumarapalayam from the year 2003 onwards. The petitioner have already entered into Memorandum of Agreement relating to Dispensing Pump and Selling Licence with M/s. Bharath Petroleum Corporation Limited. The petitioner is producing all the Licences given by M/s.Bharath Petroleum Corporation Limited. The petitioner have registered his concern with GST Registration Department and they have issued GST Registration Certificate and he is paying GST to the Government of Tamil Nadu and Central Government for all these years. The petitioner producing GST Registration Certificate to that effect. On 21.10.2017, the Accused have given a Requisition Letter to the petitioner by stating that they are owning 500 Trucks (Lorries) and their requirement will be around 4000 Litre per day and by requesting the petitioner to fill fuel (Diesel) to their Transport Trucks on credit. In the said letter the Accused have agreed to clear the Bill amount to the petitioner within 30 days from the date of Bill. Believing their representation as true the petitioner have accepted their request and supplied Diesel to their Trucks. The petitioner

A K PADMAPRIYA Digitally signed by A K PADMAPRIYA Date: 2026.02.07 14:12:03 +0530 have incorporated all the above said facts in para 5 of my complaint elaborately. But the petitioner failed to produce the copy of the said Letter dated 21.10.2017 in the list of Documents in my complaint. The petitioner further state that the petitioner have been maintaining true and correct account in my regular and routine course of business relating to Accused Account for all these years viz., from the year 2017 onwards. As per the regular accounts kept by the petitioner in my regular course of business there is a balance of Rs.66,77,321.00 is still due and payable to me from Accused towards purchase of the above said Petroleum Products (Diesel) from the petitioner. The petitioner is producing the true copies of the Statement of Accounts for the period from 01.04.2017 to 22.06.2025. The petitioner is an Income Tax Assesses and have been filing Income Tax Returns to Government of India for all these years. The petitioner is filing Income Tax Returns Acknowledgments for the Assessment years 2018-2019 to 2024-2025 along with the Petition. The amount due and payable by Accused to me is shown in the Income Tax Returns. On oversight some of Vital and material documents have not been filed along with the Complaint. Those documents are most important documents to prove the petitioner's case. It is relevant to note that sum and substance of those documents are already incorporated in the complaint. Hence the non – submission of the documents mentioned in the complaint is neither willful nor wanton. To receive the additional documents, the petitioner filing separate petition in support of this Affidavit. The Respondent/Accused will not be prejudiced in any manner if this petition is allowed. The petitioner have elicited all the above said facts in my Complaint itself. Hence I pray that my petition may be allowed as prayed for in the petition. As otherwise I will be put to heavy loss and hardship which cannot be compensated in any manner. I further state that at the time of preparing Complaint I was under the bonafide belief and impression that those Additional documents can be filed and marked at the time of enquiry if the Accused contest the above case. The petitioner have already examined myself as PW1 and marked Exhibits P1 to P16 as my Exhibits on my side in the above case. The Proof Affidavit filed on 11.02.2025 is not exhaustive, elaborate and explicit and not in consonance and conformity with the Complaint filed by me in the above case. Hence the petitioner is constrained to file this petition at this stage. The petitioner intend to mark the petition mentioned documents as my Additional documents to prove the case. Hence, prayed to allow the application.

GIST OF THE COUNTER:

The petition is false, frivolous, and vexatious and it is not maintainable either in law or on facts and is liable to be dismissed in limine. The Petition is put to strict proof of all allegations contained in the petition except those that are specifically admitted herein. The averments contained in petition are totally denied by the respondents herein. The documents filed on the side of the petitione itself unmasked the real and cunning face of the petitioner before this court. The documents have been purposely created by the petitioner for the purpose of this case in order to get unlawful gain from the respondents. The respondents right from the beginning denying the contention in the complaint. The complaint has been created with an ingenious mind of the petitioner in order grab money form the respondents unlawfully. The respondents have never issued a cheque to the petitioner as stated in the complaint. If the present documents is really in the custody of the petitioner at the time of filing the complaint means the petitioner might have filed those documents before this court at the time of filing itself. The present complaint has been filed before this court on 13.10.2022 itself. At that time if the pretitioner really holds those documents in his custody means he might have filed those documents at the time of filing the complaint before this court. Further in this case the respondents have been appeared before this court and he has denied the complainant version before this court on 25.04.2023 itself. After 2 years, the petitioner has been examined before this court on 12.02.2025. At that time also the documents mentioned in the petition has not been filed along with the proof affidavit while examining the petitioner. It clearly shows the petitioner never holds all those documents in his custody at that time of PW1 examination. The respondent is always ready to cross examination of PW1. The documents are all fraudulently created for the purpose of this case. All those documents are inadmissible one. The documents mentioned in the petition never relevant to this case or to the respondents because these respondents has never entered into any agreement with the petitioner as mentioned in the petition. Further the documents filed on the side of the petitioner before this court dated 21.10.2017 has been purposely created for the purpose of this case. It is not a genuine one. Furthermore, the respondent has never signed in the any documents filed before this court and the Vehicle number mentioned in the documents filed before this court does not belongs to the respondents herein. The petitioner has not filed single Voucher before this court. In the complaint and in the present petition or the documents filed by the petitioner never show the details about how many liters of diesel filled in each vehicle and signature from the lorry driver has not been filed before this court. It clearly shows the present petitioner has not approached this Hon’ble court with a clean hand. The documents filed along with the petition are worthless one and fakely created for this case. The entires mentioned in the documents in the name of SSPT Transport does not belongs to this respondents concern. The petitioner has also never filed single piece of documents with this petition before this court to show the agreement, balance due to respondents concern by name Sri Sendraya Perumal Transports. There is no merit in this petition and the present petition has been filed just to confuse the court and achieve their illegal goal. By allowing this type of petition will create new route to others for creating fake documents to support their case. The reason for non filing of the documents at the time of filing the complaint is unacceptable one. Under these circumstances in the interest of justice and for proper adjudication this court may kindly be pleased to dismiss this petition with heavy cost and there by render justice. Hence, prayed to dismiss the petition.

POINT FOR CONSIDERATION:

1. Whether the said application is to be allowed or not?

ANSWER TO THE POINT NO.1

The petitioner who is the complainant in the main case had filed application under section 311 of the code of Criminal Procedure to recall PW1 for the marking of documents on petitioner side. The documents intended to be marked are Memorandum of Agreement relating to Dispensing Pump and Selling Licence entered into between M/s.Bharath Petroleum Corporation Limited and V.G.Palanisamy Prop. Of M/s. Sri Shanmuga Auto Service for the period 2015-2020, 2020-2025, 2025-2030, GST Registration Certificate of the firm, Requisition letter given by the 1st Accused to complainant to sell the Diesel on Credit. Statement of Account relating to 1st Accused firm from 01.04.2017 to 22.06.2025, Income Returns Acknowledgment for Assessment year 2018-2019, 2019-2020, 2020-2021, 2021-2022, 2022-2023, 2023-2024, 2024-2025. The respondent do object the marking of the said petition stating that he had not filed the said documents at the time of filing of the complaint or during his chief examination. The SSPT Transport mentioned in the documents does not belongs to this respondents and claims it to be forged. All the documents intended to be marked are only IT returns and the statement of accounts and the requisition letter issued by the respondent. The genuiness of the documents could only be decided in the Judgment and the same can also be questioned at the time of cross examination. Mere marking of the documents in the later stage cannot be taken as forged. The reason stated by the petitioner is satisfied. The only objection put forth by the respondent is delay tactics. Though the petition is filed belatedly, necessary opportunity must always be provided to the parties to prove their claim. Allowing of this petition would not cause any prejudice to the respondent but dismissal of the petition might cause injustice to the petitioner. Hence, considering the foregoing discussions made, this court allows this petition.

IN THE RESULT:

1. The petition is allowed.

Directly typed by me in the Computer and corrected by me and the order pronounced in the open court on the 07th day of February 2026.

A K PADMAPRIYA

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Judicial Magistrate,
Komarapalayam