

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, RANIPET

**Present: Tmt.A.DAOU DH AMMAL, B.A.,M.L.,
Assistant Sessions Judge/
Chief Judicial Magistrate, Ranipet**

Tuesday, the 16th day of June, 2026

**Crl.M.P.No.233/2026
in
SC.No.167/2019**

1. Deepak
2. Naveen @ Nagarajan
3. Sasikumar @ Seenu
4. Jayaseelan
5. Baskaran

... Petitioners/Accused

-Vs-

State by Inspector of Police,
Ranipet Police Station,
Crime No.195/2019

... Respondent/Complainant

This Petition coming before me for final hearing on 12.06.2026 in the presence of Mr.R.Bakavath Kumaran, Counsel for the Petitioners/Accused and Mrs.V.Ragini, Additional Public Prosecutor for Respondent/Complainant and on perusal of records, averments in the Petition and Counter and evidence adduced before this court and having stood over for consideration till this date, this court delivered the following

ORDER

The Petition is filed by the Petitioners/Accused u/s.311 of Cr.P.C to recall the evidence of PW10 Tr.Thirunavukarasu for the purpose of cross examination in the interest of justice.

Petition Averments in Nutshell:

2. The Petitioner has submitted that the case in S.C.No.167/2018 is pending before this Court in Trial Stage. PW10 was already examined in chief by this court but he was not cross examined due to want of specific instruction from the Accused and for perusal of some important documents. The non cross examination of PW10 is neither willful nor wanton. The cross examination of PW10 is very much essential for the proper appreciation of the defense. Hence this Petition.

Counter Averments in Nutshell:

3. The Respondent have submitted that the Petition is devoid of merits and not maintainable either in law or on facts and the same is liable to be dismissed in limini. In the above case, IO already examined and also no strong and valid reason not made out from the Petition. Already there is a Petition filed by the Accused u/s.315 Cr.P.C. before this court in which there is no mention about the Re-call of PW10. Hence this Petition is not maintainable at the same time, since such filing are supposed to confuse the court and to delay the further proceedings. As per the Hon'ble Apex Court ruling in AG vs Shivakumar Yadav, 2016-1-LW-Criminal 561, it had been held that it is obligatory that the power under section 311 Cr.P.C. to be invoked by the court only in order to meet the ends of justice for strong and valid reasons and the same must be exercised with care, caution and circumstances. Hence this Petition is liable to be dismissed.

Point for consideration:

4. Whether the Petition filed u/s.311 of Cr.P.C to recall the evidence of PW10 Tr.Thirunavukarasu for the purpose of cross examination is to be allowed or not?

Point:

5. This Petition has been filed stating that the case in S.C.No.167/2018 is pending before this Court in Trial Stage. PW10 was already examined in chief by this court but he was not cross examined due to want of specific instruction from the Accused and for perusal of some important documents. The non cross examination of PW10 is neither willful nor wanton. The cross examination of PW10 is very much essential for the proper appreciation of the defense. Hence this Petition. The Respondent have submitted that the the Petition is devoid of merits and not maintainable either in law or on facts and the same is liable to be dismissed in limini. In the above case, IO already examined and also no strong and valid reason not made out from the Petition. Already there is a Petition filed by the Accused u/s.315 Cr.P.C. before this court in which there is no mention about the Re-call of PW10. Hence this Petition is not maintainable at the same time, since such filing are supposed to confuse the court and to delay the further proceedings. As per the Hon'ble Apex Court ruling in AG vs Shivakumar Yadav, 2016-1-LW-Criminal 561, it had been held that it is obligatory that the power under section 311 Cr.P.C. to be invoked by the court only in order to meet the ends of justice for strong and valid reasons and the same must be exercised with care, caution and circumstances. Hence this Petition is liable to be dismissed.

6. It is to be noted that this Petition has been filed to recall the evidence of PW10 for the purpose of cross examination in order to establish the case of the Defense. Even though, the Respondent has objected to allow this Petition stating that already there is a Petition filed by the Accused u/s.315 Cr.P.C. before this court in which there is no mention about the Re-call of PW10. Hence this Petition is not maintainable at the same time, since such filing are supposed to

confuse the court and to delay the further proceedings. The Accused/Petitioners failed to cross examine the Prosecution witness PW10 even though opportunities were given, whereas this court considers that an opportunity shall be given to the Petitioner to cross examine PW10 in order to establish the Defence case. Hence, this Court is inclined to allow this Petition, in the interest of justice.

7. In the result, this Petition stands Allowed, in the interest of justice and PW10 shall be recalled for the purpose of cross examination.

Dictated to the Typist, typed by her in computer directly, corrected and pronounced by me in open court this the 16th day of June, 2026.

Assistant Sessions Judge/
Chief Judicial Magistrate,
Ranipet.

Prosecution side witnesses and Exhibits : NIL

Respondents side witnesses and Exhibits: NIL

Assistant Sessions Judge/
Chief Judicial Magistrate,
Ranipet.