

BEFORE THE II ADDITIONAL DISTRICT AND SESSIONS COURT,
ARAKKONAM, RANIPET DISTRICT.

Present: Tmt.K.S.Jayamangalam, M.L.,
II Additional District and Sessions Judge,
Arakkonam.

Thursday the 11th day of June 2026.

Crl.M.P.No.133/2026 in S.C.No.16/2024

1. V.Suganya

2. R.Prabhu

...Petitioners/A1 & A2

/vs/

The State represented by

Inspector of Police,

Arakkonam Town P.S.

Cr. No.240/2016

...Respondent/Complainant

This petition came before me on this day for hearing in the presence of Thiru.S.Shanmugam & V.Dhanasekaran Learned counsel for the Petitioners and Learned Additional Public Prosecutor for the respondent and after hearing both sides, this court delivered the following

ORDER

The petitioners are the accused have filed this petition under section 348 of BNSS Act to recall the witnesses P.W.19 and P.W.20 for the purpose of cross-examination.

2. Brief of petition:-

The petitioners are the accused in the above case. The above case is posted on 28.04.2026 for Judgment. Initially the above case was taken up for trial by the Hon'ble II Additional District & Sessions Court, Ranipet in S.C.No.155/2018 and P.W.1 to P.W.18 were examined. The petitioners/accused engaged their counsel Mr.Prakash to defend the case before II Additional District & Sessions Court, Ranipet and he also cross-examined the witnesses P.W.1 to P.W.18. Subsequently, the case was transferred to this court in the year 2024 and renumbered as S.C.No.16/2024. On 18.08.2025 Mr.Sridharan and Mr.Nagarajan Investigation Officer were examined as P.W.19 and P.W.20. On that day, the petitioners' counsel could not cross-examined the witnesses due to inconvenience of the previous counsel. Thereafter the case is posted for 313 questioning. During that time the previous counsel for the petitioners informed that he could not able to appear before this court and also asked them to engage some other counsel and contest the case before this court without issuing change of vakalath and case bundle. Subsequently the petitioners engaged the present counsel and filed change of Vakalath on 02.04.2026. On 25.04.2026 the present counsel has verified the case through E-court service and came to know that the witnesses P.W.19 and P.W.20 were not cross-examined by the previous counsel on the above said dates and thereafter the above case is posted for 313 questioning. The counsel for the petitioners by oversight and negligent not cross-examined the witnesses. The present counsel also without knowing the same argued the matter on 10.04.2026. The recall of P.W.19 and P.W.20 are investigation officers and they are very crucial and vital

witnesses of the case. The failure of cross-examination of the witnesses on the defence side arrived only for the above said reasons. It is neither wilful nor wanton. Unless the petition is allowed, the petitioners will be put to much hardship and irreparable loss.

3. Counter filed by the respondent/prosecution:-

The present petition is wholly devoid of merits, unsustainable in law. The prosecution has examined all material witnesses, marked relevant documents and completed its side evidence. Thereafter the accused were questioned under the relevant provision of law and sufficient opportunity was granted to them to defend the case. The petitioners now contended that they were under a bonafide impression that the witnesses P.W.19 and P.W.20 had not yet been examined. Such a plea is false, untenable and invented only for the purpose of delaying the proceedings. It is the duty of the accused and their counsel to vigilantly follow the progress of the case and keep track of witness examination. The petitioners have attempted to shift the blame upon their previous counsel and stated that only after engaging a new counsel they came to know of the alleged lapse. It is a settled principle that change of advocate or dissatisfaction with earlier counsel cannot be a valid reason to reopen a concluded trial. If such pleas are entertained, no criminal case would ever attain finality. The present petition is clearly an attempt to fill up lacuna in the defence after realizing weakness in their case. No specific reasons or proposed line of questioning has been disclosed. The absence of particulars itself shows that the petition lacks bonafides and has been filed only as a delaying tactic. The petitioners themselves admitted that they verified the case status through E-courts portal

on 25.04.2026. Even after such alleged knowledge, they did not immediately approach this court. The plea that grave prejudice would be caused to the accused if the witnesses are not recalled is wholly misconceived. The accused had adequate opportunity throughout the trial and cross-examined several witnesses. The official witnesses are public servants engaged in ongoing duties and may have since been transferred or assigned elsewhere. Recalling them at this advance stage would cause unnecessary inconvenience, delay the proceedings, and waste valuable judicial time. Once evidence has concluded and arguments have been heard, reopening the matter without compelling reasons would undermine the administration of justice and encourage abuse of process. Hence, the petition is to be dismissed.

4. The Point for consideration is:-

1) Whether the petition is to be allowed or not?

5. The petitioners are the accused filed this petition to recall the P.W.19 and P.W.20 for the purpose of cross-examination. Unless, the present petition is allowed they cannot disprove the prosecution case.

6. By way of reply, the Learned Additional Public Prosecutor has argued that the petitioners filed this petition belatedly with an intention to protract the proceedings. The powers of this court to summon or recall witnesses are discretionary and intended to advance the cause of justice but not to permit parties to fill omissions or repair defects in their case after conclusion of evidence and arguments. The present petition is an attempt to fill up the lacuna in the defence after realizing the weakness in their case.

The petitioners have not given any specific reason to entertain the present petition. Therefore, if the present petition is allowed, the respondent/prosecution would be put to serious hardship, therefore prayed to dismiss the above petition.

7. After hearing the arguments of both sides, the petitioners are the accused who are facing charges for the alleged offences u/s 302 r/w 34 of IPC. Now the case is posted for Judgment at that stage the petitioners/accused have chosen to file the present petition. The P.W.19 and P.W.20 were examined in chief on 18.08.2025. From that day to 28.04.2026 no petitions was filed by the petitioners/accused to recall P.W.19 and P.W.20 for the purpose of cross-examination. The petitioners/accused have not given any acceptable reasons to entertain the present petition. In sessions cases the accused and their counsel must be readily available to proceed with the cross of the witness as and when they are produced before the said court. The counsel for the petitioners/accused are taking shelter on the ground that they were changed by the petitioners recently. Unless an opportunity is afforded to them they cannot disprove the prosecution case. The respondent/Learned Additional Public Prosecutor has seriously objected the above petition and argued that the present petition is liable to be dismissed on the ground that it has been filed after the matter is reserved for Judgment. If at all the petitioners are interested to proceed with the cross-examination they ought to have filed a similar petition in advance. After a lapse of 6 months the petitioners/accused have moved the present petition. This court has gone through the evidence of P.W.1 to P.W.20. Except P.W.19 and P.W.20 the rest of the witnesses were cross-examined by the

petitioners/accused. If one more opportunity is afforded to them no prejudice will be caused to the respondent/prosecution. In view of the above discussion, the present petition is allowed on payment of cost.

In the result, this petition is allowed on payment of witness batta in three days and the petitioners/Accused are directed to pay a sum of Rs.750/- each (Rupees Seven Hundred and Fifty only) towards the cost of the witnesses P.W.19 and P.W.20.

Dictated by me to the Steno-Typist, typed by her directly to my dictation in computer and print taken out, corrected and pronounced by me in open court, this the 11th day of June 2026.

II Additional District & Sessions Judge,
Arakkonam.