

**IN THE COURT OF JUDICIAL MAGISTRATE, FAST TRACK COURT,  
OMALUR, SALEM DISTRICT.**

**Present: S. SADHAMHUSAIN B.A., LLB.,**

Judicial Magistrate, Fast Track Court, Omalur,  
Monday, the 27<sup>th</sup> day of October, 2025.

**CMP.No 274 /2022**

**in**

**STC.No.77/2021**

Murugan ... Petitioner/Accused

//Vs//

Balasubramani ... Respondent/Complainant

This case was taken on by this Court and coming up before me today in the presence of Advocate **Thiru. B. Sivaram** for the Petitioner/Complainant and the Respondent/ Accused being defended by Advocate **Thiru. Ezhilarasu** and upon the arguments advanced by both sides and upon considering the materials on record this court delivered the following.

**ORDER**

**1. Gist of the Petition:**

1.1 This petition is filed by the accused under Section 309 of the Code of Criminal Procedure praying to defer the cross-examination of PW-1/complainant until after the examination of the parties and witnesses to Ex. P8, an unregistered sale agreement marked among the additional documents Ex. P5 to Ex. P11.

1.2 The petitioner contends that if PW-1 is cross-examined at this stage, the proposed witnesses connected with Ex. P8 may tailor their testimony based on the answers of PW-1 in cross-examination, which would prejudice the defence. It is therefore prayed that the cross-examination of PW-1 be deferred until the said witnesses are examined and that all of them, including PW-1, be examined on the same day.

## **2. Gist of the Counter:**

2.1 The Respondent/complainant has filed a counter contending that the present petition filed under Section 309 Cr.P.C. is not maintainable. It is stated that, as per Section 309 of the Code of Criminal Procedure, once the trial has commenced and a witness is present in court, the court may adjourn the case for examination of such witness only for valid reasons to be recorded in writing.

2.2 In the present case, the petition does not disclose any such valid or special reason. The grounds raised by the petitioner do not fall within the scope of Section 309 Cr.P.C. Therefore, the provision of Section 309 Cr.P.C. is not applicable to the present petition, and the accused cannot seek deferment of cross-examination on speculative grounds.

2.3 The respondent/complainant accordingly prays that this petition be dismissed as devoid of merits and that costs be imposed upon the petitioner for filing a frivolous petition intended only to delay the proceedings.

## **3. Point for Determination:**

Whether the accused is entitled to seek deferment of the cross-examination of PW-1 until the complainant examines other witnesses connected with Ex. P8?

#### **4. Discussion:**

4.1 PW-1, the complainant, has already been recalled and re-examined, and additional documents Ex.P5 to Ex.P11 have been marked. Among them, Ex.P8 is an unregistered sale agreement. The case now stands posted for cross-examination of PW-1.

4.2 The only ground raised by the petitioner is that subsequent witnesses may mould their evidence depending upon the cross-examination of PW-1. This apprehension is purely speculative and does not constitute a legal or special reason to adjourn or defer examination as contemplated under Section 309 Cr.P.C.

4.3 In **State of U.P. v. Shambhu Nath Singh**, (2001) 4 SCC 667, the Hon'ble Supreme Court held that once examination of witnesses has commenced, the trial must continue from day to day and that when witnesses are present, the court shall proceed with their examination, except for special reasons to be recorded in writing. In **Vinod Kumar v. State of Punjab**, (2015) 3 SCC 220, the Supreme Court deprecated the practice of breaking the continuity between examination-in-chief and cross-examination, observing that adjournments contrary to Section 309 defeat the very object of fair and speedy trial.

4.4 Further, in **Indian Bank Association v. Union of India**, (2014) 5 SCC 590, it was held that proceedings under Section 138 of the Negotiable Instruments Act shall be conducted summarily and disposed of expeditiously, with minimal adjournments. The accused cannot dictate the order in which the complainant examines his witnesses. The Supreme Court in **State of Kerala v. Rasheed**, (2019) 14 SCC 1, clarified that the accused has no right to control or alter the sequence of the prosecution's evidence. Such matters fall within the discretion of the trial court.

4.5 If the accused later finds that any further cross-examination of PW-1 is essential after the examination of other witnesses, an appropriate petition under Section 311 Cr.P.C. may be filed. However, that cannot justify deferment of cross-examination at this stage. In view of the above settled legal principles and the summary nature of the proceedings, this Court finds no valid or special reason to defer the cross-examination of PW-1.

**Order:**

In the result, this petition is **Dismissed**. No costs.

Directly typed by me in my official laptop and after correcting the typographical errors, pronounced by me in the open Court on this 27<sup>th</sup> day of October 2025.

Judicial Magistrate,  
Fast Track Court,  
Omalur.