



IN THE COURT OF JUDICIAL MAGISTRATE AT UTHAMAPALAYAM

Present: Thiru. P.Kamarasu, B.A.,B.L.,

Judicial Magistrate, Uthamapalayam

On this 23rd day of July 2026

M.P. No. 6 of 2026

in

C.C. No. 327 of 2020

Vairamuthu

... Petitioner/Accused

-Vs-

The State,

Rep. by Sub-Inspector of Police,

Odaipatty P.S,

Crime No. 09/2018

... Respondent/Complainant

This petition is filed by Learned Advocate Thiru. M.Parthiban. Upon considering the petition, this court delivers the following

ORDER

1. This petition has been filed by the accused seeking an Order for recall of PWs-1 to 4 for the purpose of cross-examination.
2. The contention of the Petitioner is that the PWs-1 to 4 were examined on 21.06.2022 and 21.06.2024. The PWs-1 to 4 were not cross-examined on such dates due to unavoidable reason. The non-cross-examination was neither willful nor wanton. It is necessary and essential to cross-examine the PWs-1 to 4. Otherwise, the Petitioner will sustain severe hardship and loss. The prosecution objected to this petition.
4. This court heard the rival contentions of the both sides. Admittedly, the PW-1



was examined on 21.06.2022, PWs-2 & 3 were examined on 21.06.2024 and PW-4 was examined on 02.08.2024. On those dates due opportunities for cross-examination were also given to the defence side. It is also undeniable fact that it was the defence, who knowingly failed to cross-examine the PWs-1 to 4 though defence Counsel was duly present. Further, this petition has been filed only on 23.07.2026. There is no explanation/reason adduced by the Petitioner for such long delay of more than 4 years. The significant to be noted is that the Petitioner is not co-operating for the disposal of this C.C. which is of the year 2020.

5. Having knowingly failed to utilize the opportunity, it is not fair on the part of the Petitioner to seek the recall of PWs-1 to 4. No reason much less sufficient and acceptable reason has been adduced by the Petitioner for the recall of PWs-1 to 4. Hence, this petition lacks bonafide. Admittedly, the PWs-1 to 4 were not at all cross examined by any of the Accused. In such circumstances, this court is of the view that one more opportunity may be provided to the defence to cross-examine the PWs-1 to 4. At the same time, the delay caused due to the fault of the Petitioner has to be necessarily viewed seriously. In such a view of the matter, this petition is allowed subject to following conditions.

6. In the result, this petition is allowed on conditions (i) the defence/Petitioner shall complete the cross-examination of PWs-1 to 4 as and when they are brought before this court, (ii) the Petitioner shall pay Rs.2,000/- to each of witnesses i.e. PWs-1 to 4 towards the cost at the time of their appearance before this court failing which this petition shall stand be automatically dismissed.

Dictated to the Steno-typist, transcribed and computerized by him, corrected and pronounced by me in open Court on this the 23rd day of July 2026.

**Judicial Magistrate,
Uthamapalayam.**