



IN THE COURT OF JUDICIAL MAGISTRATE AT UTHAMAPALAYAM

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

Judicial Magistrate, Uthamapalayam

On this 05th day of June 2026

M.P. No. 19 of 2026

in

C.C. No. 295 of 2019

Prakash & 3 others

... Petitioners/Accused

-Vs-

The State,

Rep. by Inspector of Police,

AWPS, Uthamapalayam.

Crime No. 19/2017

... Respondent/Complainant

This petition is filed by Learned Advocate Thiru. V.Sadamayan. After considering the petition and the reply given by the APP Grade-II, this court delivers the following

ORDER

1. This petition has been filed by both the accused seeking an Order for recall of PW-3 for the purpose of cross-examination.
2. The contention of the petitioner is that the PW-3 was examined on 18.12.2025. The PW-3 was not cross-examined on such date due to boycott. The non-cross-examination was neither willful nor wanton. It is necessary and essential to cross-examine the PW-3. Otherwise, the petitioner will sustain severe hardship and loss.
3. The prosecution has filed a counter stating that the the PW-3 was examined on 18.12.2025. Even though the defence side was given due opportunity to cross-examine the PW-3, it was the defence, who knowingly failed to utilize the said opportunity. The intention of the defence is to drag on the completion of the trial and the same should not be permitted. The prosecution has also relined on “*Vinod Kumar versus State of Punjab, (2015) 3 SCC 220*” for the preposition that the cross-examination shall be done on the same day when the chief-examination was done.



4. This court heard the rival contentions of the both sides. Admittedly, the PW-3 was examined on 18.12.2025 on which date due opportunity for cross-examination was also given to the defence side. It is also undeniable fact that it was the defence, who knowingly failed to cross-examine the PW-3. The reason adduced by the petitioners is that there was advocates' boycott on 18.12.2025 and that is why, the PW-3 could not be cross-examined. Further, this petition has been filed only on 21.05.2026. There is no explanation/reason adduced by the petitioners for such long delay. The significant to be noted is that the petitioners are not co-operating for the disposal of this C.C.

5. Having knowingly failed to utilize the opportunity, it is not fair on the part of the petitioners to seek the recall of PW-3. No reason much less sufficient and acceptable reason has been adduced by the petitioner for the recall of PW-3. Hence, this petition lacks bonafide. Admittedly, the PW-3 was 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 PW-3. At the same time, the delay caused due to the fault of the petitioners 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/petitioners shall complete the cross-examination of PW-3 as and when he/she is brought before this court, (ii) the petitioners shall jointly pay Rs.1,000/- to PW-3 towards the cost at the time of his/her 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 05th day of June 2026.

**Judicial Magistrate,
Uthamapalayam.**