



IN THE COURT OF JUDICIAL MAGISTRATE AT UTHAMAPALAYAM

Present: P.Kamarasu, B.A.,B.L.,  
Judicial Magistrate, Uthamapalayam

On this 10<sup>th</sup> day of October 2025

M.P. No. 1/2025

in

C.C. No. 38/2023

Srinivasan

... Petitioner/Accused

-Vs-

The State,  
Rep. by Inspector of Police,  
Uthamapalayam P.S.

... Respondent/Complainant

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

**ORDER**

This petition has been filed by the accused seeking an Order for recall of PWs-1 to 4 for the purpose of cross-examination.

The contention of the petitioner is that the PWs-1 to 3 were examined in-chief on 15.05.2024. So far the PWs-1 to 4s were not cross-examined and his failure to do so was due to non-availability of bundle and the documents relating to this case. The non-cross-examination was neither willful nor wanton. It is necessary and essential to cross-examine the PWs-1 to 4. Otherwise, the petitioners will sustain severe hardship and loss.

The prosecution has filed a counter stating that the PWs-1 to 4 were examined on 15.05.2024 on which date the petitioner/accused and his Counsel were present. Eventhough the defence side was given due opportunity to cross-examine the PWs-1 to 4, 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 relied on "*Vinod Kumar versus State of*



*Punjab, (2015) 3 SCC 220* for the proposition that the cross-examination shall be done on the same day when the chief-examination was done.

This court heard the rival contentions of the both sides. Admittedly, the PWs-1 to 3 were examined on 15.05.2024 on which date 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 the accused and his Counsel were duly present. Further, this petition has been filed only on 04.09.2025. There is no explanation/reason adduced by the petitioner for such delay. The significant to be noted is that the petitioner is not co-operating for the disposal of this C.C.

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.

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.500/- 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 automatically dismissed.

Dictated to the Steno-typist, transcribed and computerized by him, corrected and pronounced by me in open Court on this the 10<sup>th</sup> day of October 2025.

**Judicial Magistrate,  
Uthamapalayam.**