

In the Court of Additional District & Sessions Judge (Fast Track Court),
Kumbakonam.

Present:- Tmt.T.Jayashree, M.L.,
Additional District and Sessions Judge (F.T.C.), Kumbakonam

Monday, the 1st day of June, 2026

Crl.M.P.No. 45 of 2026 in S.C.No. 34 of 2020

Lali @ Manikandan

...Petitioner / Accused No.5

Vs.

State by the Inspector of police,
Natchiyarkovil Police Station.
(Cr.No.374/2014)

...Respondent/Complainant

This petition came before this Court for final hearing on 01.06.2026 in the presence of Thiru.M.Murali, Advocate appearing for the petitioner / Accused No.5 and in the presence of Thiru.B.Vijayakumar, B.A., B.L., Special Public Prosecutor appearing for the State and upon hearing the arguments of both sides and on perusing the case records, and having stood over till this day, this court passed the following:-

ORDER

1) This petition has been filed by the petitioner / accused No.5 u/s 311 of Cr.PC., (u/s. 348 of BNSS) to recall PW.1 to PW.26 for cross examination.

2) The learned counsel for the petitioner has submitted that the is facing a case for the alleged offence under section 147, 148, 364, 302, 120 (B) r/w 149 IPC and the case is pending before this Hon'ble Court. The petitioner / accused is arrayed as fifth accused. The Petitioner / Accused submits that since he was not able to give proper instructions to the counsel who was previously appearing on behalf of the petitioner/Accused, the counsel had returned the case bundle to the petitioner/Accused and he withdrew his Memo of Appearance and had reported no

instructions before this Hon'ble Court on 20.11.2023. The first accused was absent on that day. No arrest warrant was issued against the first accused on that day by this Hon'ble Court. 11 witnesses were examined by this Hon'ble Court on the same day. On the date of examination of the said witnesses PW 1 to PW 11 the petitioner/ Accused has not engaged any counsel to defend his case. The Hon'ble Court has also not opted for state brief to the petitioner/ Accused. Non Bailable warrant was issued against the first accused on 21.11.2023. Thereafter after several hearings the case was split up against the first accused on 18.10.2024. After several hearings on 07.02.2025, PW 12 to PW 20 were examined. On the date of examination of the said witnesses PW 12 to PW 20 the petitioner/ Accused has not engaged any counsel to defend his case. Thereafter on 18.03.2025 PW 21 to PW 24 were examined. On the date of examination of the said witnesses PW 21 to PW 24 the petitioner/ Accused has not engaged any counsel to defend his case. It is further submitted that only on 24.03.2025 the petitioner/accused engaged the undersigned counsel as his counsel and the undersigned counsel filed vakalat for the petitioner/ Accused. On that day PW25 was examined by this Hon'ble Court. Since the under signed counsel was engaged on that day and since the petitioner/ Accused is continuously under judicial custody he could not give instructions to his counsel to defend his case. Thereafter only on 30.06.2025 PW26 was examined by this Hon'ble Court. Since the said witness is one of the investigating officers, without cross examining other witnesses he could not be cross examined. The Petitioner/ Accused further submits that the witnesses PW 1 to PW 26 have to be cross examined and the cross examination of those witnesses are very much essential to arrive at a just decision in the case. The Petitioner/ Accused submit that if this petition is not allowed, much prejudice would be caused to the Petitioner/ Accused. On the other hand no prejudice would be caused to the Prosecution. Therefore, it is prayed that this Hon'ble court may be pleased to recall witnesses PW I to PW27 to enable the Petitioner/ Accused to cross examine them, to pass such other necessary order and thus render justice.

3) The Special Public Prosecutor has stated in the objection that as against the petitioner / 5th accused, Lali @ Manikandan and others, a case in Cr. No.374/2014 under sections 302 of IPC @ under section 147, 148, 324, 341, 302 r/w 109 of IPC was registered by Natchiyarkoil police station and trial is pending before this court. The petition is not maintainable under law and it is liable to be dismissed in limine. The petition is highly belated. The allegation made in the petition are hereby denied as false and imaginary. The intention of the other side is only to prolong the proceedings. Hence, the petition may be dismissed.

4) The point for consideration is Whether this petition has to be allowed or not?

5) Heard. Records perused. Upon careful perusal of the case records, the petition averments and the submissions made by the Special Public Prosecutor, it reveals that as against the petitioner and six others, a criminal case in Cr. No.374/2014 for the offences under section 147, 148, 364, 120(b) & 302 of IPC was registered by the Natchiyarkoil police station and the same was numbered as SC No.34/2020 and since one of the accused, viz., Suriya @ Suriya Prakash, was absconded, the case against him was split up and numbered as SC. 264/2024 and both the cases are now under trial and till date the prosecution has examined the witnesses PW.1 to PW.27 and marked the documents Ex.P1 to Ex.P57. The petitioner / 5th accused, Lali @ Manikandan, has filed this petition to recall all the prosecution witnesses PW.1 to PW.26 for cross examination stating that since he was not able to give proper instructions to the earlier counsel, due to under judicial custody, the earlier counsel had returned the case bundle and he withdrew his Memo of Appearance and had reported no instructions on 20.11.2023. Further, it is contended that on 20.11.2023, the first accused was absent and no arrest warrant was issued against him and 11 witnesses were examined as PW.1 to PW.11 and since the petitioner has not engaged any counsel to defend his case and the Court has also not

opted for state brief to the petitioner/Accused and NBW was issued against the first accused on 21.11.2023. Further, it is contended that after several hearings the case was split up against the first accused on 18.10.2024 and on 07.02.2025, PW 12 to PW 20 were examined and the petitioner/ Accused has not engaged any counsel to defend his case and the Court has also not opted for state brief to the petitioner/Accused. Further, it is contended that on 18.03.2025 PW 21 to PW 24 were examined and the petitioner/ Accused has not engaged any counsel to defend his case and the Court has also not opted for state brief to the petitioner/Accused and it is further contended that only on 24.03.2025 the petitioner/accused engaged the present counsel as his counsel and filed vakalat and on that day PW 25 was examined since the present counsel was engaged only on that day and the petitioner/Accused is continuously under judicial custody, he could not give instructions to the present counsel to defend his case and on 30.06.2025, PW 26 was examined and since the said witness is one of the investigating officers, without cross examining other witnesses he could not be cross examined. Further, it is contended that the witnesses PW 1 to PW 26 have to be cross examined and the cross examination of those witnesses are very much essential to arrive at a just decision in the case and prayed to pass an order to recall witnesses PW I to PW26, so as to enable the Petitioner/Accused to cross examine them. PW.1 to PW.26 have deposed on the side of prosecution in connection with the case. Further, the commitment of offence is pending for the past 12 years, ie., pending from the year 2014 and this is one of the very long pending case before this Court. In order to render principles of natural justice and to come to a conclusion in the case and to give one more opportunity to the defense side to cross examine the witnesses in this case for proper adjudication and to come to a correct conclusion, the said opportunity must be given to the defense side. Hence, this court is inclined to allow this petition by imposing costs to bear for the expenses of to and fro to the witnesses.

In the result, this petition will be allowed on payment of cost of Rs.500/- each and every recall witnesses and thus the Petitioner / accused is directed to deposit Rs.13,000/- before this court on or before 08.06.2026 failing which this petition will stand dismissed. Call on 09.06.2026.

Pronounced by me in the Open court this the 1st day of June, 2026.

Sd/- (T. Jayashree)
Additional District & Sessions Judge
(F.T.C.), Kumbakonam.