

**BEFORE THE ADDITIONAL MAHILA COURT (MAGISTRATE
LEVEL),TIRUVARUR**

Present: Tmt. S. Cintha B.A. B.L (HONS).,
Judicial Magistrate,
Tiruvarur.

Monday, Dated 19th day of May month, 2025.

CrI.M.P. No. 01 of 2025 in

CC. No.23 of 2024 (Crime No.456 of 2022)

Selvendiran,
S/o.Soundrapandiyan

... Petitioner/Accused

Vs.

State Rep. by
The Inspector of Police.
Taluk Police Station,
Tiruvarur.

...Respondent/Complainant

This petition came up before me for hearing on 19.05.2025 in the presence of Learned Counsel Thiru. P.Sridharan, appearing for the Petitioner/accused. Learned Assistant Public Prosecutor Gr.II, Thiru. S.Anand, (I/c) appearing for the State. Heard the submissions of both sides. Perused the case records. This Court after considering the submissions made by both sides and perusal of the case records passes the following

ORDER

1. The Petitioner/Accused have filed the present petition Under section 348 BNSS seeking to recall PW1 and PW2 for the purpose of cross examination.

2. This Petitioner/Accused would aver that the case has been registered against the accused Under Section 294(b),326, 506(2) IPC Act and seeks to recall PW1 and PW2 for purpose of cross examination. The Petitioner/accused would aver that on the date of examination of PW1 and PW2 the petitioner/accused Learned counsel Advocate was suffering from jaundice and was taking treatment, so he was unable to appear and cross-examine witnesses due to ill health. So PW1 and PW2 were not able to be cross examined. Further Petitioner/accused would aver that there is evidence to prove that alleged crimes against the Petitioner/accused were not committed. Which can be elucidated only by cross examination of prosecution witness. Hence, The Petitioner prays that it is necessary to recall PW1 and PW2 for the purpose of cross examination.

3. The prosecution strongly opposed this petition and stated that the reason averred by the Petitioner/Accused is not acceptable and that the petition has been filed only to drag on the proceeding. Citing Vinoth Kumar Vs. State of Punjab case. Hence prayed to dismiss the petition.

4. Heard both sides records perused. The Petitioner/ accused have been charged Under Section 294(b),326, 506(2) IPC Act. This petition has been filed to Recall PW1 and PW2 for cross examination. The petitioner/ accused would aver that Learned counsel Advocate Learned counsel Advocate was suffering from jaundice and was taking treatment, So he was unable to appear and cross-

examine witnesses due to ill health. On perusal of case records it is found that PW1 and PW2 has been examined in chief on 20.11.2024 and it has been recorded that there is no cross examination due to non appearance of learned defence counsel. Hon'ble Supreme court in the case V.N.Patil v. K.Niranjan Kumar & Ors (2021 SCC OnLine SC 172) has observed that, "18. The aim of every Court is to discover the truth. Section 311 Crpc is one of many such provisions which strengthen the arms of a Court in its effort to unearth the truth by procedure sanctioned by law. At the same time, the discretionary power vested under Section 311 Crpc has to be exercised judiciously for strong and valid reasons and with caution and circumspection to meet the ends of justice" in order to give the petitioner/accused opportunity of cross examination of prosecution side witness, for the just decision of the case and in the the interest of justice this petition is allowed with cost of Rs.500/- each to be paid to witness on the date of cross examination.

5. In result this petition is allowed with costs.

Dictated to steno-typist directly typed by her in computer corrected and pronounced by me in open Court on this 19th day of May month, 2025 (Monday).

Judicial Magistrate
Additional Mahila Court
(Magistrate Level)
Tiruvarur.