



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 20-07-2026**

CORAM

**THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**CRL OP No. 19523 of 2026**

**and**

**Crl.M.P.Nos. 12957 & 12959 of 2026**

1. Dinakaran  
S/o. Gnanasekar,  
No.27/9, Rajaji Nagar, 5<sup>th</sup> Street,  
Villivakkam, Chennai-600 049.
2. Vijayaraman  
S/o. Paulraj,  
No.40, 2<sup>nd</sup> Street,  
Janakiram Colony,  
Villivakkam, Chennai-600 049.
3. Sadayappan  
S/o. Gopal,  
No.17/8, Patel Street,  
Nehru Nagar,  
Chrompet, Chennai.

..Petitioner(s)

Vs

The State rep by the Inspector of Police  
J-4, Kotturpuram Police Station,  
Chennai. (Ref Crime No.708/2018)

..Respondent(s)

Prayer: Criminal Original Petition filed under Section 528 of BNSS, to call for the records and set aside the order passed in Crl MP No.23 of 2026 dated 29.06.2026 in CC No. 2174 of 2019 on the file of the learned IX Metropolitan Magistrate Court, Saidapet, Chennai and pass such further or other orders as this Honorable Court.



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For Petitioner(s):

Mr.K.Ramsankar

For Respondent(s):

Mr.M.Mohamed Riyaz  
Government Advocate (Crl. Side)

### **ORDER**

The prayer in the Criminal Original Petition is to set aside the order made in Crl.M.P.No. 23 of 2026 dated 29.06.2026 made in C.C.No.2174 of 2019 on the file of the learned IX-Metropolitan Magistrate Court, Saidapet, Chennai.

2. The learned Magistrate has allowed the said application filed by the prosecution to issue summons to Mr.Kothandaraman, S/o. Rajendran and Mrs.Vijayalakshmi, who is the Inspector of Police as additional witnesses. The objection on behalf of the petitioners is that even though the said Vijayalakshmi is sought to be examined as an Investigating Officer, her name does not find place in the list of witnesses furnished by the prosecution themselves. As far as Kothandaraman is concerned, he is a complete 3<sup>rd</sup> party and was not examined during the course of investigation and, his statement is not part of the final report that is filed by the respondent Police.

3. The learned Government Advocate (Crl. Side) would submit that merely because the name is not mentioned in the list of witnesses that does not preclude the prosecution from examining such witnesses so as to bring out the

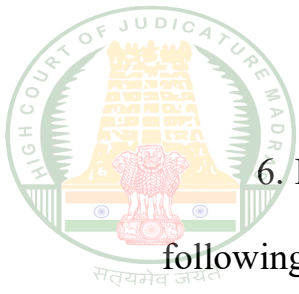


truth. If their versions are relevant to the case of the prosecution, the prosecution should not be shut out even without examining the said witnesses.

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4. I have considered the submissions made on either side and perused the material records of the case.

5. The right of the prosecution to bring such facts which are relevant to the case can never be shunted out. At the same time, the accused is entitled to procedural safeguards and cannot be oppressed by the prosecution. However, in that view of the matter, unless and otherwise the said Kothandaraman was earlier examined by the prosecution and his statement under Section 161 is already furnished to the accused along with the final report, suddenly, without even examining him during the course of investigation, straight away the said Kothandaraman cannot be examined as the prosecution witness. Even if the prosecution feels that such a witness is relevant, they should file an application under section 173(8) of Cr.P.C., for further investigation and examine the said witness and file a supplementary final report and thereafter, he should be summoned to give evidence. As far as Vijayalakshmi is concerned, since she is said to be the Investigating Officer and when she has investigated the matter and, the same are all matters of record along with the final report. The mere omission of the name in the list of witnesses by itself will not cause any prejudice to the petitioners / accused.



6. In view thereof, this Criminal Original Petition is partly allowed on the following terms:

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i) The order of the Trial Court dated 29.06.2026 is set aside in as much as it permits Mr.Kothandaraman to be examined as a witness. However, it will be open for the prosecution to file a fresh application under section 173(8) of Cr.P.C., spelling out the reasons and, the Trial Court can consider the relevance of the further investigation and permit the prosecution to examine the said Kothandaraman during investigation thereafter, file a supplementary report and thereafter only the said Kothandaraman, if necessary, can be examined in the trial

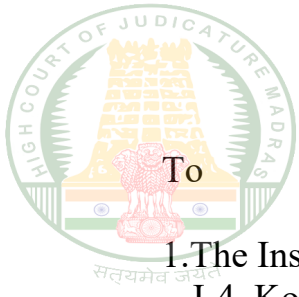
ii) As far as the said Vijayalakshmi is concerned, the order of the Trial Court stands affirmed.

7. Consequently, connected miscellaneous petitions are closed.

**20-07-2026**

Neutral Citation: No

KKN



To

1. The Inspector of Police,  
J-4, Kotturpuram Police Station,  
Chennai.

2. The IX – Metropolitan Magistrate Court,  
Saidapet, Chennai.

3. The Public Prosecutor,  
High Court of Madras, Chennai.



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**D.BHARATHA CHAKRAVARTHY, J.**

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