



Crl.OP(MD) No.14596 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 17.07.2026

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.14596 of 2026
and Crl.MP(MD) No.14155 of 2026

Babin

... Petitioner

Vs

State of Tamilnadu Rep by
Inspector of Police, Kottar Police Station,
Kanniyakumari District.
(Crime No. 873 of 2021).

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS Act, to call for the records in Cr.M.P.No. 942 of 2026 in C.C.No. 240 of 2022 on the file of the Communal Clash Cases, Madurai dated 05.05.2026 and set aside the same.

For Petitioner : Mr.S.Muniyandi

For Respondent : Mr.B.Arun
Government Advocate (Crl.Side)



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ORDER

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The present petition has been filed by the sole accused in CC 240 of 2022 on the file of the Communal Clash Cases Court, Madurai, challenging the dismissal of his application filed under Section 348 of BNSS.

2.It could be seen from the records that the petitioner has filed a memo of appearance on 08.10.2024. However, the same was not taken on file but the petitioner was insisted to file a vakalat. The petitioner has filed his vakalet on 12.08.2025. PW3 was chief examined on 08.08.2025. Since the petitioner has not filed his vakalat on that day, his counsel was not permitted to cross examine PW3.

3.On 13.08.2025, the petitioner has filed an application into Section 348 of BNSS seeking to recall PW3 for the purpose of cross examination. The same was returned by the learned Judge on the ground that old Cr.P.C., section has been mentioned. Thereafter, the petitioner has filed another application on 03.09.2025, after rectifying the defects. Again, that application was returned on the ground that witnesses list has not been furnished. Thereafter, the present application has been filed on 12.02.2026 to



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recall PW3. This application has been dismissed on the ground that based on false submissions, the present application has been filed into Section 348 of BNSS. Challenging the same, the present petition has been filed.

4. According to the learned counsel appearing for the petitioner, the petitioner had filed memo of appearance on 08.10.2024 and the same was not accepted and therefore, the vakalat was filed by the petitioner only on 12.08.2025, ie., after the chief examination of PW3 on 08.08.2025. In such circumstances, the previous two applications filed by the petitioner having been returned by the Court citing certain defects, cannot be found fault with the third application on 12.02.2026.

5. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. The dates and events that are narrated above clearly indicate that the petitioner's counsel has taken immediate steps for recalling PW3 to cross examine him. However, the first two applications have been returned citing some technical defects. The third application has been filed on 12.02.2026. In such circumstances, considering the seriousness of the allegations made against



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the petitioner, the petitioner should be granted an opportunity to recall and cross examine PW3.

7.In such view of the matter, this Criminal Original Petition is allowed in the following terms:

- a) The impugned order in Cr.M.P.No. 942 of 2026 in C.C.No. 240 of 2022, dated 05.05.2026 is set aside and the petitioner shall be permitted to recall and cross examine PW3;*
- b) The petitioner shall pay batta within a period of three days from the date of receipt of copy of this order;*
- c) The petitioner is directed to cross examine PW3 on the date on which he appears;*
- d) It is made clear that the petitioner shall not be granted any further opportunity for cross examination of PW3.*

8.Consequently, connected miscellaneous petition is closed.

17.07.2026

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
PNM



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To

1. The Sessions Judge, Communal Clash Cases Court,
Madurai

2. Inspector of Police, Kottar Police Station,
Kanniyakumari District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

PNM

ORDER MADE IN
Crl.OP.(MD)No.14596 of 2026
and Crl.MP(MD) No.14155 of 2026

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