

Crl.R.C.No.1737 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2025

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.RC.No.1737 of 2025

and

Crl.M.P.No.17511 of 2025

T.Mani

.... Petitioner

Vs.

State represented by
The Inspector of Police
Singanallur Police Station
Coimbatore.
(Crime No.964 of 2009)

.... Respondent

PRAYER: Criminal Revision Petition filed under Sections 438 & 442 of BNSS Act, 2023, praying to set aside the order passed in Crl.M.P.No.5 of 2025 in SC.No.51 of 2012 on the file of the Principal District and Sessions Judge, Coimbatore dated 13.08.2025.

For Petitioner : Mr.R.Pradeep Kumar

For Respondent : Dr.C.E.Pratap
Government Advocate (Crl.Side)



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ORDER

This petition has been filed to set aside the order passed in Crl.M.P.No.5 of 2025 in SC.No.51 of 2012 on the file of the Principal District and Sessions Judge, Coimbatore dated 13.08.2025.

2. Challenging the impugned order passed by the trial Court, A2 had preferred this revision on the following grounds;

“2. The learned Principal District and Sessions Judge, Coimbatore, failed to note that the case pertains to the year 2012, and the alleged offence was committed in the year 2009. The FIR was lodged in 2009, and the charge sheet was filed only in the year 2012, after a delay of three years. Thereafter, the prosecution examined 40 witnesses, while the defence examined PW1-PW23 and marked Exhibits P1-P27. The evidence on both sides were closed and the matter was posted for Section 313 questioning. On 24/06/2025, the case had reached the final stage of arguments. At this juncture, after 16 years of the alleged offence, the prosecution filing a petition under Section 173(8) of the Code of Criminal Procedure, without serving notice to the counsel on record. Entertaining and allowing such a petition is itself a violation, and the order of the Principal District and Sessions Judge is false, vexatious, and prejudicial to the cause of justice.



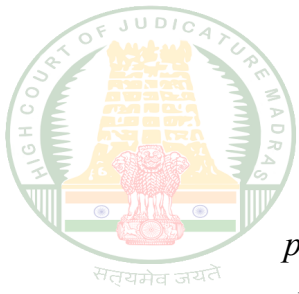
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3. *The Principal District and Sessions Judge omitted to appreciate the material discrepancies mentioned in the both the FIRs marked as Ex in which the age P14 and Ex P15 and Charge Sheet marked as Ex.of the missing person is mentioned as 58 years, whereas the post. mortem report marked as Ex P12 and the final report Marked as Ex P13 the age of the deceased is recorded as 30 years. This glaring contradiction itself is sufficient to show that the two persons are different. The prosecution's theory equating the missing person with the deceased is purely on circumstantial evidence cannot be sustained in this case.*

4. *The learned Principal District and sessions Judge erred to note that the Chain of Circumstances is not proved by the Prosecution. The prosecution examined 40 witnesses, all on circumstantial evidence only and no ocular witness were examined. In such a situation, the chain of circumstances must be complete and unbroken. However, prosecution failed miserably to establish such a chain and is now attempting to "patch up" the broken chain.*

5. *The learned Principal District and Sessions Judge omitted to note that the vehicle allegedly used in the offence has not been recovered by the prosecution. Recovery of such material evidence would have been the most crucial factor in a case involving grave charges against the Petitioner under Sections 302 and 201 IPC.*

6. *The Principal District and Sessions Judge overlooked material points in the post-mortem report Ex P-12. The report itself mentions that certain samples were sent for chemical analysis. However, the prosecution has neither conducted nor produced any such Chemical analysis to date. This indicates that since 2009, the*



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prosecution has merely preserved the samples without conducting the requisite identification or analysis.

The learned Judge also failed to appreciate that, after 10 years, the amples are highly susceptible contamination, tampering, and mishandling, thereby rendering them unreliable.

7. The Principal District and Sessions Judge failed to address the lacunae on the part of the prosecution. At this belated stage, when the matter is at the stage of Arguments, filing a petition under Section 173(8) CrPC cover up the for Further Investigation cannot be permitted merely prosecution's lapses.

8. The learned Judge by appreciating the prosecution's petition under Section 173(8) CrPC is only a tactic to Shatter the evidence of the Defence. No new evidence has been produced. The Principal District and Sessions Judge failed to note that the procedure of DNA testing has been in use since the early 1990s, and CrPC was amended in 2005 to explicitly permit DNA sample collection in criminal cases. Therefore, filing a petition in 2025, seeking DNA comparison with the alleged deceased's daughters, is no new evidence and serves no purpose. This could and should have been done during the course of trial. At the final stage of arguments, with no new evidence, such a petition is nothing but a strategy to fill up the Lacuna of the Prosecution. The Landmark Judgment by the Supreme court of India in



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K Vadivel Vs Shanthi

"It is beyond cavil that speedy and timely justice is an important facet of rule of law. Denial of speedy and timely justice can be disastrous to the rule of law in long term. Even if the parties involved in a case themselves, with no valid justification attempt to delay the Proceedings, the Court needs to be Vigilant and nip any such attempt in the bud instantly. The administration of justice feeds on the faith of the citizenry and nothing should be done to even remotely shake that faith and confidence. It is essential to note that this Court emphasized that though power to order further investigation is a significant power it has to be exercised sparingly and in exceptional cases and to achieve the ends of justice (gation should or should not be ordered in DevendraNath Singh va State of Bihar &Ors., (2023) 1 SCC 48, p 433 Whether further investigation within the discretion of the Magistrate and the said discretion is to be exercised on the facts of each case in accordance with law. This Coun also held that in an appropriate case, where the High Court feels that the vestigation is not in the proper direction and to do complete justice swhere the facts of the case so demand, the inherent powers under Section 482 CrPC could be exercised to direct further investigation or even lice had reinvestigation. This Court reiterated the principle that even under further Section 482 Cr.P.C. The wide powers are to be exercised fairly with circumspection and in exceptional cases, the further investigation cannot be permitted to do a fishing and roving enquiry when the police charge-sheet and the very applicant for fur investigation, in this case respondent no. 1. has not whispered about anything new in her evidence as is now sought to be averred in the application. There must be some reasonable basis which should trigger the application for further investigation so that the court is able to arrive at a satisfaction that ends of justice require the ordering/permitting of already fled further investigation.



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3. The learned counsel for the petitioner submitted that the petitioner is filed at belated stage nearly about 17 years. After both parties blood samples were sent to FSL for chemical analysis, Femur bone chemical analysis is illegal. The trial Court has erroneously allowed the application which is liable to be set aside.

4. The Prosecution submitted that the trial Court had observed the Femur bone was sent to FSL for chemical analysis/ DNA Test in the year 2009, due to various circumstances, the concerned police failed to get the FTA cards from the FSL to collect the blood samples of the concerned persons and without noticing the same, now the trial was commenced, at this stage the prosecution realized about the non-collection of DNA report from the FSL. Therefore, besides DNA could be taken from the material object preserved properly by the FSL. To prove the case beyond the reasonable doubts, the Trial Judge had rightly given the opportunity to the prosecution by allowing that application. Therefore, the objection raised by the appellant is not sustainable. If at all any defence available to them, it can be adjudicated before the trial Court.



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5. In view of the above, this petition is dismissed as no merits.

Consequently, connected Miscellaneous Petition is closed.

18.09.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
dna

To

1.The Principal District and Sessions Judge,
Coimbatore.

2.The Inspector of Police
Singanallur Police Station
Coimbatore.
(Crime No.964 of 2009)

3.The Public Prosecutor
High Court, Madras.



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T.V.THAMILSELVI, J.
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