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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-12-2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CRL RC No. 2492 of 2025

and

CrI.M.P.No.22113 of 2025

Arokiyanathan

Petitioner(s)

Vs

1. Vidyaa Ramkumar

2.The State Rep by SHO

CBCID, through learned State Public Prosecutor,
Pondicherry.

Respondent(s)

PRAYER:Criminal Revision filed under Section 438 r/w 442 of BNSS to set aside the order dated 29.08.2025 in Cr.M.P.No.2 of 2025 in CrI.Appeal No.39 of 2022 on the file of III Additional District Judge at Puducherry.

For Petitioner (s)	Mr.P.S.Ganesh
For Respondent(s):	Mr.M.V.Ramachandramurthy Additional Public Prosecutor, Puducherry - for R2

ORDER

The petitioner challenges the order passed in Cr.M.P.No.2 of 2025 in CrI.A.No.39 of 2022 filed by the first respondent/victim, wherein, the learned III Additional District Judge, Puducherry, had permitted the first respondent/victim to assist the prosecution.



2.The learned counsel for the petitioner/accused would submit that the impugned order is erroneous and contrary to the settled position of law; that Section 339 (2) BNSS does not empower the victim to participate in the appeal proceedings and the victim has no right to prosecute a case, which is instituted by the Police and therefore would pray for setting aside the impugned order.

3.Heard the learned Additional Public Prosecutor, Puducherry, for the second respondent who would submit that the victim only sought permission to assist the prosecution and though the application was filed under Section 339 of BNSS, the learned Judge had only permitted the victim to assist the prosecution in terms of Section 338 (2) of BNSS.

4.It is seen from the impugned order that the first respondent/victim has invoked Section 339 (2) of BNSS seeking permission from the learned Judge to permit the first respondent to conduct the prosecution. However, the learned Judge had only allowed the first respondent to assist the prosecution. The said power is traceable to Section 338(2) corresponding to Section 301 (2) of Cr.P.C. Therefore, though wrong provision has been quoted, this Court finds no infirmity in the order permitting the first respondent/victim to assist the prosecution. The learned counsel for the petitioner though would submit that Section 338 (2) would not be applicable to the appeal proceedings, this Court is



of the view that a reading of Sections 338 (1) and 338 together would indicate that the victim has right to assist the prosecution even in an appeal. It is made clear that the first respondent shall have right to only file a written submission and can only assist the learned Public Prosecutor in the case.

5. With the above observations, this criminal revision stands dismissed.

Consequently, connected miscellaneous petitions is also closed.

15-12-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. The III Additional District Judge,
Puducherry.

2. The State Rep by SHO
CBCID, Pondicherry.

3. The Public Prosecutor,
Puducherry.



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SUNDER MOHAN, J.

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