



WEB COPY

CRL OP No.33147 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-12-2025

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 33147 of 2025

P.Rajendran
S/o.Thangavelu, Residing at No.8,
Pedariyar Koil Street, Broadway,
Chennai - 600 001.

Petitioner(s)

Vs

The State Rep. By
The Inspector of Police,
Vigilance and Anti-Corruption,
Chennai City - III,
Chennai - 600 035.

Respondent(s)

PRAYER: Criminal Original Petition filed under Sections 528 of BNSS, 2023 praying to call for the records and set aside the order dated 28.02.2025 passed in Crl.M.P.No.751 of 2024 in C.C.No.21 of 2015 by the Special Court for the cases under the Prevention of Corruption Act, Chennai and exempt the petitioner's personal appearance to the Court on non essential stages of the trial.

For Petitioner : Mr.A.Praveen Kumar

For Respondents : Mr.S.Udayakumar
Government Advocate (Crl. Side)



ORDER

The petitioner/A2 in C.C.No.21 of 2015 had filed a petition before the trial Court under Section 228 of BNSS in CrI.M.P.No.751 of 2024 seeking exemption from appearing before the trial Court, on medical grounds and due to the change of his residence from Broadway to Kottivakkam where he was now under the care of his son. The trial Court, by an order dated 28.02.2025 dismissed the same, against which, the present petition is filed.

2.The contention of the petitioner is that the petitioner, a member of Raja Annamalaipura Co-operative House Construction Society Ltd. along with others were having dominion over three plots of the said Society which were not earlier allotted and were allotted to A5 at the rate of Rs.3,750/- per square feet when the market rate is Rs.4,150/-. The further contention of the petitioner is that the unallotted plot was a neglected one which was dumped with garbage and attempts were made for encroaching the property by miscreants and the plot was not ideally situated and the surroundings was not given a good conducive atmosphere. Considering all these aspects and also finding that there is likelihood of encroachments and the Society losing the entire property and it will be difficult to recover the property, after concurrence from the members of the Society and after getting approval from the higher officials, the plots were sold which is now been termed against the petitioner and shown that the



petitioner committed the offence. But that is the merit of the case which the petitioner is facing the trial. The entire case rests on document and it is documentary based evidence and the petitioner identity is not disputed and there is no identification by any of the witnesses by person of the petitioner. The petitioner is aged about 68 years with age related health ailments and he is unable to move without the aid of others, now he is in the support of his son. For this reason he filed a petition to dispense with his personal appearance and also gave an undertaking that he would cross examine the witnesses then and there without seeking any time and the petitioner will not be a reason for any delay. Further he will not dispute his identity or dispute the recording of evidence in his absence, but the trial Court had other reasons and dismissed the petition. Hence, the present petition is filed.

3.The learned Government Advocate appearing for the respondent fairly submitted that there are 38 listed witnesses out of which, 7 witnesses so far examined. He fairly submitted that the petitioner cross examined all the 7 witnesses as on date. He further submitted that petitioner though claims exemption on medical grounds, there is no medical records produced before the trial Court and even before this Court. The petitioner is an accused in this case but without any valid reason seeks exemption from appearance. The petitioner's exemption should not affect the progress of the trial.



4.Considering the submission made on either side and on perusal of the materials, it is seen that petitioner is 68 years old with age related health ailments and the dismissal of the dispense with petition is not proper. Hence, the dismissal order dated 28.02.2025 made in Crl.M.P.No.751 of 2024 is hereby set aside and the petitioner is permitted to be represented by his counsel under Section 228 of BNSS. The petitioner to file an undertaking affidavit stating that he will not dispute the recording of evidence in his absence or dispute his identity and cross examine the witnesses then and there and appear before the trial Court as and when directed.

5.With the above directions, the Criminal Original Petition is allowed.

19.12.2025

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
rsi



To

1. The Special Judge,
Special Court for the cases under the Prevention of Corruption Act,
Chennai.

2. The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

rsi

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