

CrL.R.C.(MD)No.589 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CrL.R.C.(MD)No.589 of 2025

and

CrL.M.P.(MD)No.6533 of 2025

1.Chandrasekar
2.Palaniappan
3.Sekar
4.Rames
5.Gopi

... Petitioners

-VS-

The State of Tamil Nadu Rep. By,
The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.
(Crime No.244 of 2019)

... Respondent

PRAYER : Criminal Review Case filed under 438 r/w. 442 of BNSS, 2023,
to call for the records relating to the order dated 21.04.2025, on the file of
the learned Chief Judicial Magistrate, Pudukkottai, in M.P.No.11 of 2025
in S.C.No.47 of

For Petitioners : Mr.B.Sekar

For Respondent : Mr.S.Ravi, Additional Public Prosecutor



CrL.R.C.(MD)No.589 of 2025

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ORDER

This Criminal Revision Case, challenges the order dated 21.04.2025, passed by the learned Chief Judicial Magistrate, Pudhukottai, in M.P.No.11 of 2025 in S.C.No.47 of 2020, whereby the application under Section 233(3) Cr.P.C., read with Section 256(3)(b) of BNSS, 2023, was dismissed.

Factual Matrix :-

2.On 05.06.2019, FIR No.244 of 2019 was registered at Aranthangi Police Station on the complaint of Thirumal, alleging offences under Sections 147, 294(b), 332, 307 and 387 IPC by the petitioners. The petitioners alleged that at about 3 a.m., on that date, the police forcibly entered the first petitioner's home, assaulted him with lathi and sticks and dragged him to the Police Station. When his relatives interposed, they too were detained and falsely implicated. At the Police Station, the first petitioner sustained multiple injuries to his back and buttocks and was threatened with re-arrest in a fabricated case, if he disclosed those injuries to the learned Magistrate or jail authorities. Terrified, he signed a statement under duress. Upon remand, the jail authorities recorded his injuries in the admission and remand registers of Aranthangi Sub jail. These registers were not produced during the prosecution's evidence. On the first date fixed for defence evidence, six years after the FIR was filed, the petitioners filed an application under Section 233(3) of Cr.P.C., read



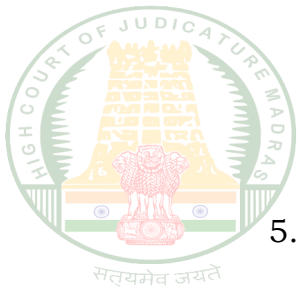
CrL.R.C.(MD)No.589 of 2025

with Section 256(3)(b) of BNSS, 2023, seeking issuance of process to the jailer to mark and produce those registers. The learned Trial Court dismissed the application on grounds of undue delay, completion of prosecution evidence, doubt as to the cause of injuries, and suspicion of a delaying tactic.

Submissions :-

3.The learned counsel appearing for the petitioners submitted that the application was filed on the first date fixed for defence evidence and the delay is attributable entirely to the prosecution's adjournments and admission and remand registers are primary, contemporaneous records of an accused's physical condition. The learned Judicial Magistrates do not maintain such entries. No prejudice would result from production. The prosecution raised no objection below. Denial of these registers deprives the accused of critical defence evidence, infringing the right to a fair trial.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioners' version of events is fabricated and the alleged assault arose from an attempted escape on 29.04.2019. He further submitted that arrests were made on 23.05.2019 and all material was in the prosecution's possession long before defence evidence. The six-year delay post charge framing renders the application unsustainable.



CrL.R.C.(MD)No.589 of 2025

5. Heard the learned counsel on either sides and carefully perused the materials available on record.

Issue :-

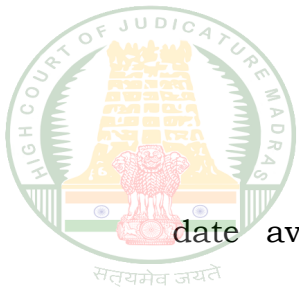
6. Whether, in view of the prosecution's own six year delay in concluding its evidence, the defence's application to produce material evidence ought to have been rejected solely on the ground of the petitioners' delay in filing it.

Discussion :-

7.1.Right to Fair Trial :- Article 21 guarantees that *"no person shall be deprived of his life or personal liberty except according to procedure established by law."* This includes the right to adduce all material evidence essential to one's defence.

7.2.Exercise of Section 233 Cr.P.C. / Section 256 BNSS Act:- Section 233 of Cr.P.C. (analogous to Section 348 BNSS Act) and Section 256(3)(b) of BNSS, confers a broad discretion to summon any person or material "necessary or desirable" for the ends of justice.

7.3.Delay and Prejudice:- Delay in invoking such discretionary powers is not fatal, if caused by the prosecution or otherwise excusable, and if no prejudice accrues. Here, the petitioners moved on the very first



CrL.R.C.(MD)No.589 of 2025

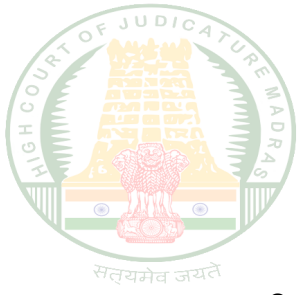
date available to them and all postponements were sought by the prosecution to conclude its evidence.

7.4.Relevance and Reliability of Registers:- Admission and remand registers maintained by jail authorities are official, contemporaneous records of an inmate's physical condition. Their production poses no risk to their integrity and is vital to test the voluntariness of the first petitioner's confession and the prosecution's case on assault.

7.5.Absence of Prejudice:- The prosecution has not demonstrated any prejudice or loss of record. In contrast, denial of these registers would deprive the court of direct, documentary proof of injuries and the coercive circumstances in which the statement was made.

Conclusion and Order :-

8.For the foregoing reasons, the impugned order dated 21.04.2025, is set aside. The application under Section 233(3) of Cr.P.C., read with Section 256(3)(b) of BNSS, 2023, is allowed. The learned Chief Judicial Magistrate, Pudhukottai, is directed to issue process for the appearance of the Jailer or Superintendent of Aranthangi Sub jail to produce and mark in evidence the admission register and remand register entries pertaining to 05.06.2019.



CrL.R.C.(MD)No.589 of 2025

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9.This Criminal Revision Case is allowed accordingly. No costs.

Consequently, connected miscellaneous petition is closed.

23.06.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes
Mrn

To

- 1.The Chief Judicial Magistrate, Pudukkottai.
- 2.The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CrL.R.C.(MD)No.589 of 2025

L.VICTORIA GOWRI, J.

Mrn

CrL.R.C.(MD)No.589 of 2025

23.06.2025