



***Crl.O.P.(MD)No.14817 of 2025***

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 09.09.2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE SUNDER MOHAN**

**Crl.O.P.(MD).No.14817 of 2025**

**and**

**Crl.M.P.(MD).No.12032 of 2025**

Eswaran

... Petitioner/Sole Accused

**Vs.**

The State of Tamil Nadu,  
By the Inspector of Police,  
Palani Taluk Police Station,  
Dindigul District.

... Respondent/Complainant

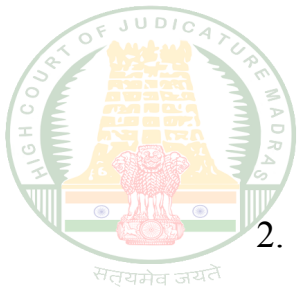
**Prayer:** Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records and set aside the docket order made in Cr.M.P.No.48 of 2025 in S.C. No.20 of 2023 on the file of the Additional District and Sessions Court (Fast Track Court), Palani dated 26.08.2025.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.R.M.Anbunithi  
Additional Public Prosecutor

**ORDER**

This Criminal Original Petition has been filed to set aside the order passed by the learned Additional District and Sessions Judge in Cr.M.P.No.48 of 2025, permitting the prosecution to examine two additional witnesses.

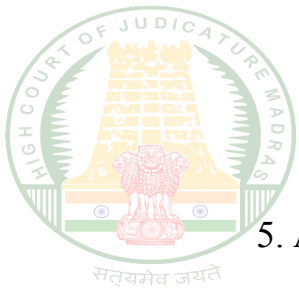


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2. The prosecution, after the cross-examination of the Investigating Officer, had filed a petition under Section 311 Cr.P.C seeking to examine two Constables, who according to P.W.10, Investigating Officer, were deputed at the scene of occurrence for the purpose of protecting the scene of crime.

3. The learned counsel for the petitioner would submit that since the defence had established during cross-examination of the Investigating Officer that the blood stained earth was not recovered on the same day of occurrence, the prosecution, to fill up the lacuna and to justify the act of the Investigating Officer in recovering blood stained earth on the next day, had sought for examining these two witnesses.

4. The learned Additional Public Prosecutor per contra submitted that these two witnesses were in fact asked to guard the scene of occurrence; that there was an inadvertent omission by the Investigating Officer in examining these two witnesses and citing them as witnesses in the final report; and that since it was a case of oversight by the Investigating Officer, the prosecution is entitled to examine them as additional witnesses under Section 311 Cr.P.C.



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5. Admittedly, the two witnesses, who are now sought to be examined by the prosecution, were not examined during investigation. The question as to whether they are now summoned for the purpose of filling up the lacuna or whether they have been inadvertently omitted, has to be examined by the Trial Court after considering the other circumstances. This Court cannot at this stage decide whether the two witnesses are sought to be examined only to fill up the lacuna. It is open to the petitioner to raise all such defences before the Trial Court and the learned Sessions Judge may consider the same while appreciating the evidence of these two witnesses.

6. With the above observations, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

**09.09.2025**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes/ No  
Lm

To  
1.The Additional District and Sessions Court  
(Fast Track Court), Palani.



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2.The Inspector of Police,  
Palani Taluk Police Station,  
Dindigul District.

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



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**SUNDER MOHAN, J.**

Lm

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**09.09.2025**