



*Crl.O.P.(MD)No.17891 of 2025*

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

**DATED : 22.10.2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE SUNDER MOHAN**

**Crl.O.P.(MD).No.17891 of 2025**

**and**

**Crl.M.P(MD) No.17658 of 2025**

S.Lakshmanan

... Petitioner

**Vs.**

The State of Tamilnadu,  
Represented by the Inspector of Police,  
Seevalaperi Police Station,  
Tirunelveli.  
Crime No.94 of 2021.

...Respondent

**Prayer:** Criminal Original Petition is filed under Section 528 of BNSS, 2023, to set aside the order passed by the learned III Additional District Sessions Judge, Tirunelveli in Cr.M.P.No.3099 of 2025 in S.C.No.528 of 2021 dated 09.09.2025 pending on his file and consequently direct the learned Judge to eschew the portion of evidence let in by P.W.1 to P.W.3 as mentioned in the said petition.

For Petitioners : Mr.Anand.R

For R1 : Mr.R.M.Anbunithi  
Additional Public Prosecutor

For R2 : Mr.R.Karunanithi



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## **ORDER**

WEB COPY The petitioner seeks to set aside the order passed by the learned III Additional District Sessions Judge, Tirunelveli in Cr.M.P.No.3099 of 2025 in S.C.No.528 of 2021, dated 09.09.2025 and consequently direct the learned Judge to eschew the portion of evidence let in by P.W.1 to P.W.3 as mentioned in the said petition.

### **2. The facts leading to file the present petition are as follows:**

The petitioner is facing trial in S.C.No.528 of 2021, dated 09.09.2025 before the Additional District Sessions Judge, Tirunelveli, for the offences punishable under Sections 147, 148, 294(b), 109, 302, 307, 506(ii), 120B, 149 and 114 of IPC.

2.1. One M.Palani/second accused had filed a petition in CrI.R.C.(MD) No.848 of 2022 before this Court, challenging the order passed on the petition filed by the prosecution under Section 231(1) of Cr.P.C, seeking permission to mark nine documents and to examine four witnesses on the side of the prosecution. This Court in the said revision, had permitted the prosecution to mark four documents and examine two witnesses out of four witnesses. Thereafter, according to the petitioner the prosecution had elicited certain facts



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from P.W.1 to P.W.3, which were disallowed by this Court in the abovesaid revision. Therefore, the said Palani had filed Crl.O.P(MD) No.18591 of 2022 before this Court. This Court, vide order dated 31.10.2022, had observed that if any part of the deposition of any witnesses is found to be objectionable, the learned III Additional District and Sessions Judge, Tirunelveli, may eschew that portion of the evidence after giving opportunity to the prosecution and the learned counsel for the accused either before the cross examination of the witnesses or at the conclusion of the trial. The other accused thereafter filed an application before the learned trial Judge seeking implementation of the directions issued by this Court in the petition filed by the co-accused Palani. The said application was dismissed. Two other accused also filed similar petitions, which were also dismissed by the trial Court.

2.2. Those two accused filed a revision before this Court in Crl.R.C(MD) No.134 of 2023 and this Court, by its order dated 08.02.2023, had dismissed the said revision stating that the prayer relating to the eschewing of the evidence has to be considered only by the trial Court; that any order passed by this Court would amount to review of the earlier order passed by coordinate Bench of this Court. Thereafter, the petitioner had filed Crl.M.P(MD) No.3099 of 2025 before the trial Court. The trial Court had observed that the request of



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the petitioner to eschew the portion of the evidence of PW1 to PW3 would be decided at the time of judgment, after hearing the submissions on either side and only then, the Court would be able to decide whether the portions of the evidence deposited by the witnesses are improvements or irrelevant to this case.

3. The learned counsel for the petitioner would submit that unless the portions of the evidence are eschewed, the petitioner's right to have a fair trial would be denied and that irrelevant evidence would influence the learned Judge and sought for allowing the petition.

4. The learned Additional Public Prosecutor, on instructions, would submit that the co-accused in this case, have been repeatedly filing petitions seeking similar relief; that in all cases liberty was granted to the learned trial Judge to consider the admissibility or otherwise of the evidence; and that the present attempt made by the petitioner is only to delay the trial.

5. The learned counsel for the second respondent /defacto complainant would reiterate the submissions made by learned Additional Public Prosecutor and oppose the grant of prayer.



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6. The grievance of the petitioner is that certain portions of the deposition of PW1 to P.W.3 have been recorded contrary to the earlier directions of this Court in Crl.R.C(MD) No.848 of 2022; and that those portions are irrelevant, inadmissible and is an afterthought.

7. By the impugned order, the learned trial Court had observed that the question as to whether which of the portions of the depositions of PW1 to PW3 are irrelevant or is an afterthought could be considered only after hearing the submissions of the accused and the prosecution, at the end of the trial.

8. This Court finds no infirmity in the findings of the trial Court. It is needless to say that the question of admissibility or contradictions in the evidence and the improvements can always be addressed by the petitioner at the stage of final arguments. It is for the trial Court to appreciate the evidence in the light of arguments advanced by both the prosecution and the defence. Therefore, this Court finds no reason to interfere in the impugned order, dated 09.09.2025, especially when a coordinate Bench of this Court had directed the trial Court to decide that issue.



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9. With the above observations, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

**22.10.2025**

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

Indu/ars

To

- 1.The Inspector of Police,  
Seevalaperi Police Station,  
Tirunelveli.
- 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**SUNDER MOHAN, J.**

Indu/ars

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