



Crl.O.P.(MD)Nos.19958, 19959 and 19961 to 19963 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.11.2025

Pronounced on : 28.11.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)Nos.19958, 19959, 19961, 19962 and 19963 of 2025

and

Crl.M.P.(MD)Nos.16802, 16801, 16803, 16804 and 16805 of 2025

Ram Gopal

... Petitioner in
Crl.O.P.(MD)No.
19958 of 2025

Shri. Dhananjayakumar

... Petitioner in
Crl.O.P.(MD)No.
19959 of 2025

Shri. Roshankumar

... Petitioner in
Crl.O.P.(MD)No.
19961 of 2025

1.Shri. Anjueet Kumar

2.Shri. Deepak Kumar

... Petitioners in
Crl.O.P.(MD)No.
19962 of 2025



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Shri. Uttam Kumar

... Petitioner in
Crl.O.P.(MD)No.
19963 of 2025

Vs.

The State represented by
The Inspector of Police,
CBI : ACB,
Chennai.
RC MA1 2017 A 0027
(C.S.Nos.6, 7, 8, 9 and 10)

... Respondent
in all the
petitions

Common Prayer : These Criminal Original Petitions filed under Section 528 B.N.S.S., to call for the records relating to the impugned SUO-MOTU orders dated 29.09.2025 passed in C.C.Nos.794, 795, 796, 797 and 798 of 2022 on the file of the Chief Judicial Magistrate, Tiruchirapalli and to set aside the same as illegal as ultra vires and unsustainable in the eye of law.

(in all the petitions)

For Petitioners : Mr.R.Surya Prakash

For Respondent : Mr.C.Muthu Saravanan
Special Public Prosecutor for CBI cases

COMMON ORDER

These Criminal Original Petitions are filed, invoking Section 528 B.N.S.S., against the suo motu orders dated 29.09.2025 passed in



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C.C.Nos.794, 795, 796, 797 and 798 of 2022 on the file of the Court of
Chief Judicial Magistrate, Tiruchirapalli.

2. The petitioner in Crl.O.P.(MD)No.19958 of 2025 is the sole accused in C.C.No.794 of 2022, the petitioner in Crl.O.P.(MD)No.19959 of 2025 is the sole accused in C.C.No.795 of 2022, the petitioner in Crl.O.P.(MD)No.19961 of 2025 is the sole accused in C.C.No.796 of 2022, the petitioners in Crl.O.P.(MD)No.19962 of 2025 are the accused 1 and 2 in C.C.No.797 of 2022 and the petitioner in Crl.O.P.(MD)No.19963 of 2025 is the sole accused in C.C.No.798 of 2022 on the file of the Court of Chief Judicial Magistrate, Tiruchirapalli.

3. For the sake of convenience and brevity, the petitioners are hereinafter referred as 'accused 1 to 6'.

4. The case of the prosecution is that the Ordinance Factory, Trichy issued a notification for appointment of 15 posts for Multi-Tasking Staff (MTS). M/s.Ace Consultants was engaged for the purpose of receiving online applications and M/s.Savat Infosol, Chennai was engaged for the



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preparation of question papers. The written examination was conducted on 29.05.2016 and totally 2098 participants have taken the exams and during the examinations, fingerprints of all the candidates appearing for the examination was obtained and the whole examination was videographed. On completion of written examination, 15 candidates were selected for the post of MTS, out of which, 9 candidates have joined and their fingerprints were taken and sent to the Tamil Nadu Fingerprint Bureau, who reported that the fingerprints taken from the accused 1 to 4 were not matching with the fingerprints, which were taken at the time of examination. On the basis of the complaint lodged by the Assistant Works Manager, Ordinance Factory, Trichy, FIR came to be registered by the CBI in FIR No.RCMA12017A0027 on 16.11.2017. During the investigation, the CBI has taken specimen signatures and thumb impression of the four accused and sent them to the Central Forensic Laboratory (CFSL), Hyderabad and received a report on 14.06.2018 stating that the admitted signatures of the accused 2 to 4 are not identical and no opinion was given in respect of the first accused. The first accused signature was obtained and sent to the CFSL, Hyderabad for obtaining GEQD opinion and by report dated 07.11.2019, it was confirmed that the first accused signature did not tally.



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After completing the investigation, the CBI filed separate final reports and the cases were taken on file in C.C.Nos.794 to 798 of 2022 and the same are pending on the file of the Court of Chief Judicial Magistrate, Tiruchirapalli.

5. It is not in dispute that the prosecution examined 6 witnesses, and after evidence completion, the cases were pending for arguments. On 26.09.2025, the defence arguments were heard, and the case was adjourned to 29.09.2025 for CBI's reply arguments. On 29.09.2025, the learned Chief Judicial Magistrate invoked Sections 311 and 311A Cr.P.C., passing suo motu orders for taking the accused' thumb impressions in open court and sending them to the Forensic Lab for expert opinion. The defence had argued that thumb impressions and specimen signatures taken during investigation did not comply with Sections 4 and 5 of the Identification of Prisoners Act, and expert testimony could not rectify these defects, prompting the impugned orders and it is necessary to refer the following passages in the impugned orders;

“3. Though the trial has been concluded and the case is almost ripe to pronounce judgment, the court is of the view that delivering judgment by pointing out the



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mistakes committed by the prosecution will not be fair in discharging complete justice.

4. The trial is conducted only to find out the truth and not to point out the mistakes committed by the prosecution. If at all anything is to be done to meet the ends of justice, this court is of the view, that it has to be definitely done. So far, the case has travelled for about three years as calendar case and for about 10 years right from the investigation stage and nothing is going to happen if the case further proceeds for about one or two months more.

5. So, the court has decided to obtain the thumb impressions of the accused in the presence of this court with the help of the expert and to get opinion from the expert by comparing the same with the admitted thumb impressions of the accused in the attendance sheet, OMR sheet, call letter and obtained also at the time of joining the duty. It is to be noted that these are the admitted signatures even by the accused.

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7. In such view of the matter, to get a clear cut evidence in this case and also to meet the ends of justice, this court orders that the accused shall appear on the next



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hearing to give his thumb impressions in open court which shall be obtained with the help of expert, which should be sent to the Forensic Lab in a sealed cover along with the admitted signatures pointed out above. The prosecution side shall take steps to bring the expert in taking LTIs before this court on the next hearing.

8. The Forensic Science Laboratory (FSL) has to analyse those impressions and to give the report as to whether the thumb impressions taken in the open court are identical with the thumb impressions available in the attendance sheet, admit card, OMR sheet and in the sheet obtained at the time of joining duty.

9. Considering the age of the case, it is instructed that the opinion has to be given on a top priority basis, in such a way that the rights of the accused are not affected because of the delay. After getting the opinion, the person who is going to analyse and give the report shall be examined, so that the accused side will have no prejudice over this. Considering the peculiar facts of the case, this court thus invokes the powers given u/s 311 A and 311 of Criminal Procedure Code (Cr.P.C). Accordingly, it is ordered.”



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6. Aggrieved by the above impugned orders, the present Criminal Original Petitions are filed.

7. The learned counsel appearing for the petitioners would submit that the impugned orders passed under Section 311 Cr.P.C. for obtaining the thumb impression of the accused through an expert and sending the same to the Forensic Laboratory for comparison with the admitted signatures and thumb impressions would amount to further investigation, which is impermissible in law and such a direction is beyond the scope of Section 311 Cr.P.C. and that the Court cannot resort to investigative steps under the guise of judicial powers. He would further submit that the Court can order further investigation under Section 173(8) Cr.P.C., only on the application filed by the concerned investigating officer and it cannot be ordered suo motu by the Court, that the trial Court has no authority to order further investigation on its own, after taking cognizance of an offence and that the power of further investigation cannot be exercised to fill up the lacuna or loopholes in the prosecution case and any such attempt would cause serious prejudice to the accused.



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8. The learned counsel appearing for the petitioners would submit that Section 311A Cr.P.C. is not applicable for taking thumb impression and is applicable only for taking specimen signature or handwriting, that ordering further investigation at the stage of judgment will cause inordinate delay and deprive the accused of their fundamental rights to a speedy and fair trial guaranteed under Article 21 of the Constitution of India and that Section 311A Cr.P.C. can only be invoked during investigation stage and not during the trial of the case.

9. The learned Special Public Prosecutor appearing for the respondent police would submit that the defence argued that their thumb impressions and specimen signatures were not taken in compliance with Section 311A Cr.P.C. and Sections 4 and 5 of the Identification of Prisoners Act and after hearing the arguments of the defence side, posted the case for reply arguments on 29.09.2025 and on that day, the learned Chief Judicial Magistrate passed an order under Section 311A Cr.P.C. in the interest of justice and posted the case to 13.10.2025 and on that day, since the expert had come, thumb impressions were taken in the open Court. He would further submit that Section 311A Cr.P.C. can be extended



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to any investigation or proceeding under the Code, that Section 311A Cr.P.C. enables a Magistrate if satisfied that it is expedient / necessary / useful to direct a person to give specimen signature / handwriting for the purpose of any investigation or proceeding under the Code and as such, the order passed by the learned Chief Judicial Magistrate is well within the meaning of proceeding under the Code, that as per Section 165 of the Indian Evidence Act, a Magistrate in order to discover or to obtain proper proof of relevant facts can order for the production of any document or thing, that though Section 311A Cr.P.C. specifically mentions about the specimen signature and handwriting, the Hon'ble Supreme Court authorizes a voice sample can be taken under Section 311A Cr.P.C. and as such, there is no bar for taking thumb impression invoking Section 311A Cr.P.C. and that the above petitions, which are devoid of merits, are liable to be dismissed.

10. Before proceeding further, it is necessary to refer Section 311A Cr.P.C.;

“311-A. Power of Magistrate to order person to give specimen signatures or handwriting. - If a Magistrate of the first class is satisfied that, for the



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purposes of any investigation or proceeding under this Code, it is expedient to direct any person, including an accused person, to give specimen signatures or handwriting, he may make an order to that effect and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in such order and shall give his specimen signatures or handwriting:

Provided that no order shall be made under this Section unless the person has at some time been arrested in connection with such investigation or proceeding.”

11. Section 311A Cr.P.C. was inserted in the Code vide Act 25 of 2005, to provide for investiture of Magistrates with powers to issue directions to any person including an accused person to give specimen signatures and handwriting. No doubt, as rightly pointed out by the learned counsel appearing for the petitioners, Section 311A Cr.P.C. speaks about specimen signature and handwriting and not thumb impression specifically.

12. At this juncture, it is necessary to refer the judgment of the



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Hon'ble Supreme Court in ***State of Bombay Vs. Kathi Kalu Oghad*** reported in ***AIR 1961 SC 1808***, relied on by the learned Special Public Prosecutor, wherein, the Hon'ble Apex Court has specifically observed that the term "to be a witness" does not merely include oral testimony given in Court or out of Court, but also includes written statements that incriminate the maker. However, it does not include the giving of thumb impression or specimen writing or exposing a part of the body for identification. The Hon'ble Apex Court has held that there was no infringement of Article 20(3) of the Constitution in compelling an accused person to give his specimen handwriting or signature, or impressions of his thumb, fingers, palm or foot to the investigating officer or under orders of a Court for the purpose of comparison.

13. In ***Ritesh Sinha Vs. State of Uttar Pradesh and another*** reported in ***(2019) 3 SCC (Cri) 252***, relied on by the learned Special Public Prosecutor, the Hon'ble Supreme Court has held that a Judicial Magistrate must be conceded the power to order a person to give a sample of his voice for the purpose of investigation of a crime and the relevant passage is extracted hereunder;



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“27. In the light of the above discussions, we unhesitatingly take the view that until explicit provisions are engrafted in the Code of Criminal Procedure by Parliament, a Judicial Magistrate must be conceded the power to order a person to give a sample of his voice for the purpose of investigation of a crime. Such power has to be conferred on a Magistrate by a process of judicial interpretation and in exercise of jurisdiction vested in this Court under Article 142 of the Constitution of India.”

14. As rightly pointed out by the learned Special Public Prosecutor, Section 53(2)(a) Cr.P.C. stipulates that "examination" shall include the examination of blood, blood stains, semen, swabs in case of sexual offences, sputum and sweat, hair samples and finger nail clippings by the use of modern and scientific techniques, including DNA profiling and such other tests which the registered medical practitioner thinks necessary in a particular case. Considering the above, taking of thumb impressions can be included under Section 311A Cr.P.C. even though it specifically mentions only specimen signatures and handwriting.

15. Now turning to the next contention of the petitioners that



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Section 311A Cr.P.C. can be invoked only during investigation, not at the trial proceedings, as per Black's Dictionary, proceeding would mean the regular and orderly progression of a law suit, including all acts and events between the time of commencement and the entry of judgment.

16. The learned counsel appearing for the petitioners would submit that the phrase "investigation or proceeding" in Section 311A Cr.P.C. should be read ejusdem generis, limiting its scope to investigation. However, the learned Special Public Prosecutor would contend that the inclusion of "proceeding" suggests a broader application. Considering Section 311A's wording, "proceeding" can be interpreted broadly to cover various stages of the criminal justice process, including trial. A trial being a formal examination of evidence, Section 311A Cr.P.C. can be applied during trial if deemed necessary. Hence the learned Chief Judicial Magistrate's invocation of Section 311A Cr.P.C. cannot be faulted.

17. The main objection of the learned counsel appearing for the petitioners is that the impugned order would only amount to ordering further investigation and that since the trial has already been completed,



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the learned Magistrate has absolutely no power or jurisdiction to order for further investigation and the investigating agency alone is vested with such power and relied on a decision of the Hon'ble Supreme Court in ***Amrutbhai Shambhubhai Patel Vs. Sumanbhai Kantibhai Patel and others*** reported in (2017) 4 SCC 177 and the relevant passage is extracted hereunder;

“47. On an overall survey of the pronouncements of this Court on the scope and purport of Section 173(8) of the Code and the consistent trend of explication thereof, we are thus disposed to hold that though the investigating agency concerned has been invested with the power to undertake further investigation desirably after informing the Court thereof, before which it had submitted its report and obtaining its approval, no such power is available therefor to the learned Magistrate after cognizance has been taken on the basis of the earlier report, process has been issued and accused has entered appearance in response thereto. At that stage, neither the learned Magistrate suo motu nor on an application filed by the complainant/informant direct further investigation. Such a course would be open only on the request of the investigating agency and that too, in circumstances warranting further investigation on the detection of material evidence only to secure fair investigation and



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20. The learned counsel appearing for the petitioners would then contend that Section 311 Cr.P.C. cannot be invoked to fill up the lacuna in the prosecution case.

21. The Hon'ble Supreme Court in *Varsha Garg Vs. The State of Madhya Pradesh and others* reported in *2022 LiveLaw (SC) 662*, by referring to its earlier decision in *Zahira Habibullah Sheikh and another Vs. State of Gujarat and others* reported in *AIR 2006 SC 1367*, has observed that the resultant filling of loopholes on account of allowing an application under Section 311 is merely a subsidiary factor and the Court's determination of the application should only be based on the test of the essentiality of the evidence and that the power must be exercised wherever the Court finds that any evidence is essential for the just decision of the case and is not constrained by the closure of evidence. No doubt, as rightly pointed out by the learned counsel appearing for the petitioners, the expert opinion is only advisory in nature and the same cannot be taken as conclusive proof but at the same time, the same can be used to corroborate the substantial evidence available on record.



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22. Viewing from any angle, the impugned suo motu orders passed by the learned trial Judge are perfectly legal and valid. Consequently, this Court concludes that the criminal original petitions are devoid of merits and are liable to be dismissed.

23. In the result, these Criminal Original Petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed.

28.11.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

- 1.The Chief Judicial Magistrate,
Tiruchirappalli.
- 2.The Inspector of Police,
CBI : ACB,
Chennai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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K.MURALI SHANKAR,J.

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Pre-Delivery Common Order made in
Crl.O.P.(MD)Nos.19958, 19959, 19961, 19962 and 19963 of 2025
and
Crl.M.P.(MD)Nos.16802, 16801, 16803, 16804 and 16805 of 2025

Dated : 28.11.2025