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CRL OP No. 6751 of 2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-03-2026

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THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 6751 of 2026

and

CRL MP No.4921 of 2026

Mathiazhagan

Petitioner(s)

Vs

State represented by,
Deputy Superintendent of Police,
Mamallapuram Police Station,
Mamallapuram.
Crime No.371 of 2014.

Respondent(s)

PRAYER: Criminal Original Petition filed under Section 528 of BNSS, 2023 to set aside the common order dated 13.02.2026 passed in Crl.MP.No.161 of 2025 in SC.No.89 of 2017 on the file of the Sessions Judge, Mahila Court at Chengalpattu.

For Petitioner(s): Mr.R.Vijayakumar

For Respondent(s): Mr.Leonard Arul Joseph Selvam
Additional Public Prosecutor



ORDER

The petitioner, who is arrayed as A1 facing trial in S.C.No.89 of 2017 on the file of Additional Sessions Judge (Mahila Court), Chengalpattu for offences under Section 174(3) of Cr.P.C @ into to Sections 498(A), 304(B) and 306 of IPC, has filed the present petition.

2. The contention of the learned counsel for the petitioner is that, in this case, so far totally 13 witnesses have been examined as PW1 to PW13, which includes the parents and brother of the deceased. The petitioner is the A1 in this case. The petitioner and the deceased Dhanalakshmi were married on 06.02.2014 and cohabited at the matrimonial home at Chengalpattu until 14.07.2014. Thereafter, during the month of Aadi, following the performance of a traditional function, the petitioner has dropped his wife in her parental residence at OMR. Subsequently, on the night of 17.07.2014, it is alleged that the petitioner and the deceased exchanged SMS messages while the deceased was at her parental home in Soolerikadu Village, which is 35 kms away from the matrimonial home. The deceased committed suicide by hanging at her parental home in the early hours of 18.07.2014.

3. It is further submitted that there are three versions given by the prosecution and that the version of the family members of the deceased are



inconsistent with one another. While so, when the trial had reached the penultimate stage, the Investigating Officer filed a petition under Section 193(9) of the BNSS in CrI.M.P.No.160 of 2025 to reopen the case and CrI.M.P.No.161 of 2025 to send the MO.1 mobile phone of the deceased to the Forensic Science Laboratory. The trial Court had also entertained the same and passed the impugned order, directing the Investigation Officer to send the MO.1 for Forensic Examination, when the case was listed at the stage of pronouncing judgment.

4. The learned counsel for the petitioner submitted that the practice of filing a petition for further investigation at the last stage, when the case is posted "for judgement" must be deprecated. It is also submitted that no material has been shown by the Investigating Officer to establish that there was any exchange of messages between the deceased and the accused available in MO.1, especially when the trial has already reached the penultimate stage. He further submitted that on 18.07.2014, MO.1 was handed over by PW.1 to the Police. However, after two years i.e., in the year 2016, the mobile phone was produced before the trial Court in a broken stage, and now, after ten years, the said mobile phone has been sent to the Forensic Science Laboratory. Hence, he filed the present petition to set aside the impugned order dated 13.02.2026 passed by the trial Court.



5. Mr. Leonard Arul Joseph Selvam, learned Additional Public Prosecutor, appearing for the respondent submitted that according to the prosecution, MO.1 mobile phone was produced by P.W1 on the date of the complaint i.e., on 18.07.2014, and the same was received with proper acknowledgment under a seizure mahazar. Though it was sent to the Court with some delay, it has since been only in the custody of the Court. The said mobile phone has been marked as MO.1, which is neither disputed nor objected. He further submitted that upon review of the case, it was found that the witnesses had clearly stated that, on the date of death of the victim, there had been some exchange of messages between the victim and the accused. The mobile number of the accused is 9944465203 and that of the deceased is 9840796284. Further, he submitted that the information and the records in the electronic evidence can be retrieved after a long period, and in order to retrieve such evidence, the mobile phone MO.1 was sent to Forensic Science Laboratory on 11.03.2026 and that it would be re-submitted along with the report within a period of one month.

6. It is also submitted by the learned Additional Public Prosecutor that further investigation petition can be filed at any time before the termination of the trial, as held by the Apex Court in the case of ***K.Vadivel Vs. K.Shanthi and others reported in (2024) 19 SSC 382***, wherein the Apex Court has rendered the



judgment but the question of sentence was not rendered and at that stage, a further investigation petition was filed which was objected and the Apex Court held that the trial terminates only after the sentence is rendered and the sentence is delivered. In the present case, the trial is at the stage of final arguments. Hence, he submitted that the prosecution has right to file a petition for further investigation.

7. Heard both sides and perused the materials available on record.

8. Considering the submission made by the learned counsel on either side and also taking into account that the trial has not yet been terminated, and the trial is only pending, this Court finds that the petition for further investigation has rightly been entertained and MO.1 mobile phone has been sent to Forensic Department to find out whether, if at all, there was any exchange of messages between the accused and the deceased. It is made clear that, upon receipt of the report, the same shall be filed before the trial Court and only thereafter, the petitioner is at liberty to question the veracity of the report and also to cross examine the Expert from the Forensic Department.

9. In view of the above, this Court does not find any prejudice caused to the petitioner and in fact, it would be helpful to the trial Court in arriving at the



right decision. Hence, this Court is not inclined to entertain this Criminal Original Petition. Accordingly, the Criminal Original Petition is dismissed, with a direction to the Director of Forensic Department to give priority to the examination of MO.1 mobile phone relating to this case and to submit a report before the trial Court, within a period of two months from the date of webcopy of the order being uploaded in the Madras High Court website and thereafter, the trial Court shall proceed to conclude the trial without any delay. Consequently, connected Miscellaneous Petition is closed.

23-03-2026

Jd

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. Deputy Superintendent of Police,
Mamallapuram Police Station, Mamallapuram.

2. The Officer-in-Charge,
Forensic Science Department,
Chennai.

3. The Public Prosecutor,
Madras High Court, Chennai.



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M.NIRMAL KUMAR J.
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