



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-06-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL.O.P.No.15588 of 2026

and CrI.M.P.Nos.10178 and 10179 of 2026

1. Dinkar Gopal Anchan @ D.G.Anchan

2. Divyanshu Mehta @ D.D.Mehta

..Petitioner(s)

Vs

State by

The Inspector of Police,
Central Bureau of Investigation,
Anti-Corruption Branch,
Shahstri Bhavan,
Chennai-600 006.

..Respondent(s)

PRAYER: Criminal Original Petition filed under Section 528 BNSS r/w Section 482 Cr.P.C. praying to set aside the order of the learned XII Additional Special Court for CBI Cases, Chennai dated 01.04.2026 in CrI.MP.No.346 of 2026 in CC.No.5 of 2022 and the consequential docket order dated 01.04.2026 passed in CC.No.5 of 2022 and consequently dismiss CrI.MP.No.346 of 2026.

For Petitioner(s):

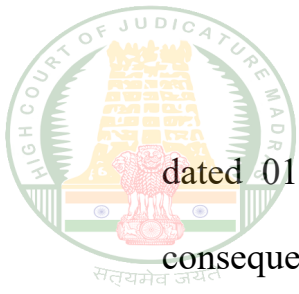
Mr.C.Manishankar
Senior Counsel
for Mr.P.Giridharan

For Respondent(s):

Mr.K.Srinivasan
Special Public Prosecutor (CBI Cases)

ORDER

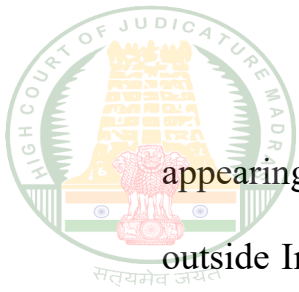
The Criminal Original Petition has been filed challenging the order passed by the learned XII Additional Special Court for CBI Cases, Chennai



dated 01.04.2026 in Crl.MP.No.346 of 2026 in C.C.No.5 of 2022 and the consequential docket order dated 01.04.2026 passed in C.C.No.5 of 2022, whereby the trial Court allowed the petition filed by the respondent under Section 317(2) of Cr.P.C. to split up the case as against the 5th accused .

2. There are totally 7 accused in this case and they are facing charges for the offences under Section 120B, r/w Section 420 IPC and Section 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988. After completion of the investigation, the respondent filed a final report and the same has been taken cognizance by the trial Court in C.C.No.5 of 2022 and it is pending trial. The entire trial has been stalled because of the 5th accused, who was not served summons so far. The trial Court did not even frame the charges as against the accused, since the 5th accused has been absenting itself and the 5th accused is a company situated in abroad.

3. While pending trial, the 6th and 7th accused also filed application before the trial Court in Crl.M.P.Nos.6094 and 6095 of 2022 in C.C.No.5 of 2022, under Section 305 of Cr.P.C. to delete their names from representing the 5th accused. Both applications were allowed by the trial Court vide order dated 01.07.2023. Thereafter, the respondent filed an application under Section 317(2) of Cr.P.C. to split up the case as against the 5th accused, on the ground that even after a lapse of 4 years, the trial is still pending. All the accused are



appearing before the trial Court, except A5. A5 is a company, which is situated outside India, beyond the territorial jurisdiction of the trial Court. Further, they could not secure the 5th accused within a reasonable time and having due regard to the right of remaining accused, who have appeared before the trial Court regularly, it was prayed to split up the case as against the 5th accused. The same was allowed by an order dated 01.04.2026 by the trial Court. The order is as follows:

“In C.C.No.5 of 2022 – Petition filed u/s.317(2) Cr.P.C. and allowed”.

4.Mr.C.Manishanar, the learned Senior Counsel, submits that the trial Court failed to follow any of the procedures as contemplated under criminal rules of practice, Rule 29, Chapter 5, states about serving of summons and warrant.

29(11) - Where the police is not able to serve summons, it shall be returned to the Court on the date mentioned in the summons together with an affidavit sworn by the police concerned detailing the steps taken by him for effecting service on the witness or accused, as the case may be.

Further,

31(7) An officer to whom a warrant of arrest is directed, shall send a report to the Court every thirty days beginning from the date of receipt of the warrant until it is executed, detailing the steps taken for executing the same. Every warrant of arrest shall bear the following Post Script: “A report detailing the steps taken to execute the warrant should be sent every thirty days until executed.” If the warrant is not executed within a period of ninety days from the



date of its issue, the Court may direct a superior officer to execute the said warrant.

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Therefore, the respondent herein did not file any affidavit to that effect that they had already taken steps to serve summons to the 5th accused and they could not serve the summons on the 5th accused.

5.He further submits that the trial Court, without passing any speaking order, simply allowed the petition to split up the case as against the 5th accused. It causes prejudice to the 6th and 7th accused, since the entire case of the prosecution falls under Section 120(B) of IPC, alleging that the accused 5, 6 and 7 conspired with the other accused persons and committed an offence.

6.On a perusal of records and also on the submissions made by the learned Special Public Prosecutor (CBI Cases), it is revealed that the respondent filed an application to split up the 5th accused from C.C.No.5 of 2022, on the ground that they were not able to serve summons on the 5th accused. However, there is no record to show that the respondent had taken steps to serve the summons on the 5th accused. That apart, the respondent also failed to file an affidavit to that effect before the trial Court. The trial Court also passed an one line order by allowing the application without stating any reasons, and therefore, the Trial Court failed to follow the procedure as contemplated under



the Criminal Rules of practice while dealing with the said application.

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7. In support of this contention, the petitioner cited the judgment of the Hon'ble Supreme Court in Criminal Appeal No.3563 of 2023. The relevant paragraphs of the judgment are extracted hereunder:

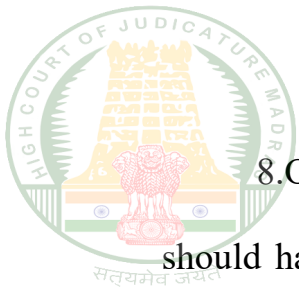
“Leave granted

2.

.....

“5.... Therefore, when the High Court permitted splitting of the trial, two important aspects were not noted by the High Court. The first one was that the learned Magistrate was not satisfied that the police have made sufficient efforts to procure the presence of all the accused. The second factor which is more important is the order of further investigation passed on 13th February, 2019. Therefore, this was not the stage at which the High Court could have permitted splitting of the case.

6. The learned senior counsel representing the respondent – State pointed out that now the Deputy Superintendent of Police is the Investigating Officer. However, as far as the nature and quality of investigation is concerned, we will have to address the said issue in the companion petition i.e. SLP (Criminal) No.7378 of 2023.”

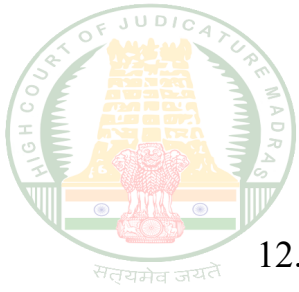


8. On a perusal of the above judgment, it can be seen that the respondent should have made sufficient efforts to procure the presence of the 5th accused and the Magistrate, only upon such satisfaction should have allowed the respondent's application seeking for splitting of the trial.

9. Though the petitioners are being the accused viz. A6 and A7, and no prejudice would be caused to them, the trial Court failed to follow the procedure and as such it cannot be sustained and the same is liable to be set aside.

10. Accordingly, the order passed by the XII Additional Special Court for CBI Cases, Chennai dated 01.04.2026 in Crl.MP.No.346 of 2026 in CC.No.5 of 2022 and the consequential docket order dated 01.04.2026 passed in CC.No.5 of 2022 are set aside. The Petition in Crl.M.P.No.346 of 2026 is remanded back to the trial Court for passing a detailed speaking order on perusal of records.

11. The trial Court is also directed to dispose the petition in Crl.M.P.No.346 of 2026 within a period of four (4) weeks from the date of receipt of a copy of this order. The respondent is also at liberty to file a supporting affidavit in support of their petition in Crl.M.P.No.346 of 2026 and the trial Court is directed to give audience to other accused.



12. In the result, this Criminal Original Petition stands allowed.

Consequently, the connected miscellaneous petitions are closed.

18-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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Note to Office: Issue order copy on 19.06.2026

To.

1. The Inspector of Police,
Central Bureau of Investigation,
Anti-Corruption Branch,
Shahstri Bhavan,
Chennai-600 006.



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CRL OP No. 15588 of 2



G.K.ILANTHIRAIYAN, J.

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