



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 01-06-2026**

**WEB COPY**

**CORAM**

**THE HON'BLE MR JUSTICE M. NIRMAL KUMAR**

CRL OP No. 34745 of 2025

and

CRL MP No. 565 of 2026 and CRL MP No. 24365 of 2025

Lakshmi Kala Desu  
W/o. M. Gautam,  
No.25-A/31-A, Panchali Amman,  
Koil Street, Arumbakkam,  
Chennai - 600 106.

..Petitioner

**Vs**

1. M. Gautam  
S/o. Matta Jagadish Simham
2. M. Jagdish Simham  
S/o. M.N. Chetty
3. M. Jayalakshmi  
W/o. M. Jagadish Simham,  
all are residing at  
No.11/63, Pachaiyappas College Hostel Road,  
Chetpet, Chennai - 600 031.
4. State by, Inspector of Police,  
W-4, All Women Police Station,  
Kilpauk, Chennai - 600 010.

..Respondent(s)

This Criminal Original Petition has been filed to set aside the order dated 06.11.2025 passed in Crl.M.P.No.340 of 2025 in C.C. No. 26 of 2024 on the file of the learned Additional Mahila Court, Egmore.



WEB COPY

For Petitioner(s):

Mr. A. Saravanan

For Respondent(s):

Mr. M. Mohamed Rafi  
for Mr. M.I. Javid Akbar for R1 to R3  
Mr. A. Amarnath,  
Government Advocate for R4

**ORDER**

This Criminal Original Petition has been filed to set aside the order dated 06.11.2025 passed in Crl.M.P.No.340 of 2025 in C.C. No. 26 of 2024 on the file of the Additional Mahila Court, Egmore.

2. The petitioner is the defacto complainant, on whose complaint a case in Crime No. 8 of 2023 was registered against respondents 1 to 3 on 12.06.2023 for offences under Sections 498(A) and 120B of the IPC. Thereafter, upon completion of the investigation, a charge sheet was filed in C.C.No.26 of 2024 against the respondents 1 to 3, listing 10 witnesses and relevant documents.

3. The learned counsel for the defacto complainant submitted that she had also filed a petition seeking permission to assist the prosecution and participate in the conduct of the trial before the trial Court. During the trial, it was noticed that six documents, namely, a copy of the AMI Montessori Diploma certificate, a copy of the marriage photo, a copy of the receipt for the marriage hall, a copy of the tax invoice issued by Days Hotel, a copy of the list of Sridhana gold and



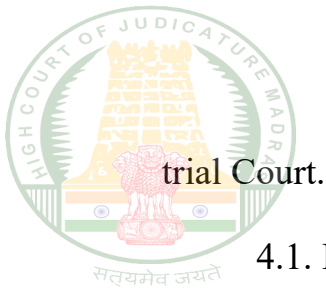
silver articles and a copy of the petitioner's bank statement for July 2022, had not been annexed to the charge sheet. Hence, a petition was filed, which was signed by the Additional Public Prosecutor on 11.09.2025. Thereafter, the impugned order came to be passed in Crl.M.P.No.340 of 2025 on 06.11.2025.

The impugned order reads as follows:

*“On perusal of case records this petition filed by defacto complainant is not maintainable. Here the prosecution is conducting this case as complainant. Hence this petition is dismissed.”*

3.1. The learned counsel further submitted that the impugned order was passed due to a misreading of the petition and a failure on the part of the trial Court to consider its contents in their entirety. Though, at first glance, the petition appears to have been filed by the defacto complainant, it was in fact signed by the concerned Additional Public Prosecutor on 11.09.2025. Therefore, the impugned order is liable to be set aside and the documents produced along with the petition are liable to be taken on record in C.C.No.26 of 2024.

4. The learned counsel for the respondents 1 to 3 submitted that in this case, they had filed a vacate stay petition along with an affidavit of the 1<sup>st</sup> respondent, stating that the petitioner had not approached this Court with clean hands and had filed a frivolous petition in Crl.M.P.No.340 of 2025 before the



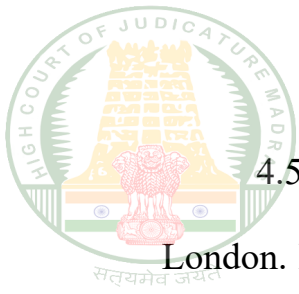
trial Court.

4.1. It was further submitted that the case is now pending trial and that the chief-examination of PW1 is partly completed. The petitioner commenced her chief-examination on 12.06.2025, during which Exs. P1 to P5 were marked. While the chief-examination of PW1 was pending, on 11.09.2025, the petitioner, through her counsel, filed a petition under Section 348 of the BNSS.

4.2. The learned counsel further contended that the short cause title clearly indicates that the petition was filed by the defacto complainant and not by the 4<sup>th</sup> respondent. He further pointed out that the docket of the petition it is typed as “*counsel for the petitioner / defacto complainant, S. Natarajan.*”

4.3. It was further submitted that when the trial was at the stage of continuation of the chief-examination of PW1, an attempt to fill up lacuna by introducing new materials that do not form part of the charge sheet is impermissible. Allowing such a petition would effectively permit the prosecution to be conducted by a private person rather than by the Additional Public Prosecutor, who alone is competent to conduct the prosecution.

4.4. The learned counsel further submitted that the dispute arises out of matrimonial discord and has been given a criminal colour. He also contended that copies of the documents sought to be produced had not been served upon respondents, thereby depriving them of an opportunity to raise their objections and that the trial Court had rightly dismissed the petition.



4.5. It was further submitted that the 1<sup>st</sup> respondent is employed in London. Earlier the petitioner approached this Court seeking a direction for the expeditious disposal of the trial. Accordingly, in Crl.O.P.No.29636 of 2025, by order dated 31.10.2025, this Court directed the trial Court to complete the trial within six months. According to the learned counsel, the defacto complainant, who is the estranged wife of the 1<sup>st</sup> respondent, has been attempting to delay and protract the trial proceedings and the filing of the present petition is one such attempt. Consequently, a vacate stay petition was filed.

4.6. The learned counsel fairly submitted that if the prosecution intends to produce any additional documents, it is for the investigating agency to file an appropriate petition through the Public Prosecutor, who must satisfy the Court regarding the admissibility and reliability of the such documents. Only thereafter and after hearing the objections of the respondents 1 to 3, can such documents be taken on record.

5. The learned Government Advocate for the 4<sup>th</sup> respondent submitted that although the petition was styled as one filed by the defacto complainant, it was in fact filed by the Additional Public Prosecutor attached to the concerned Court along with the accompanying documents.

5.1. He further submitted that the trial Court had not gone into the merits or relevance of the documents sought to be produced, but had mechanically dismissed the petition, which is not proper. According to the learned

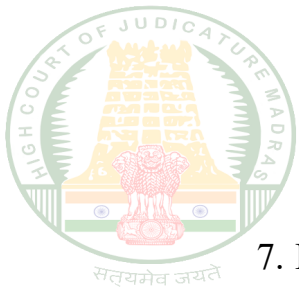


Government Advocate, the five documents sought to be produced are essential for proving the prosecution case and therefore, ought to be taken on file.

WEB COPY

5.2. He further submitted that even assuming that there was any defect in the short cause title of the petition, a fresh petition could be filed and the document could be produced before the trial Court. The trial Court may thereafter consider the same on its merits and pass appropriate appropriate orders.

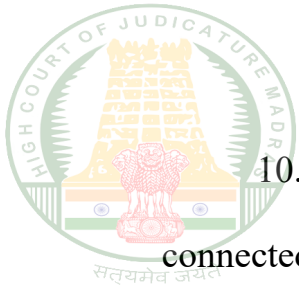
6. Considering the submissions made and upon perusal of the materials available on record, it is seen that the dispute primarily relates to the short cause title shown in Crl.M.P.No.340 of 2025. However, the petition was in fact filed by the Additional Public Prosecutor. As rightly pointed out by the learned counsel for the respondents, the 4<sup>th</sup> respondent has been shown as the prosecuting agency, which may be due to an oversight or overenthusiasm. Nevertheless, that by itself cannot be a ground to reject, at the threshold, the documents sought to be relied upon by the prosecution. It is for the trial Court to examine the admissibility and relevance of the documents to the facts and circumstances of the case and thereafter decide whether they should be taken on record. At the same time, permitting a person merely assisting the prosecution to independently file petitions and produce additional documents may open the floodgates and would not be proper. The conduct of the prosecution by the State through the Public Prosecutor, is to maintain neutrality.



7. Hence, a fresh petition to be filed through the Public Prosecutor, along with copies of the documents proposed to be produced. The respondents shall be served with copies of the same. Thereafter, the trial Court to consider the contentions of the Public Prosecutor, the objections of the respondents, if any, with regard to the relevance and admissibility of the documents and thereafter pass appropriate orders in accordance with law.

8. It is also seen that there are only four witnesses in the case and that this Court earlier directed the trial Court to complete the trial within a period of six months. At present, PW1 is under examination and rest of three witnesses can be examined without any delay, within a period of three months.

9. In view of the above, the impugned order dated 06.11.2025 passed in Crl. M.P. No. 340 of 2025 in C.C. No. 26 of 2024 on the file of the Additional Mahila Court, Egmore. is set aside. The trial Court is directed to give priority to this case and proceed with the trial on a day-to-day basis, as far as possible and complete the trial within a period of three months from the date of receipt of a copy of this order and to bring the case to its legal end in any event within a period of four months.



10. In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

WEB COPY

01-06-2026

Neutral Citation: Yes/No  
AT

To

1. The Additional Mahila Court, Egmore.
2. The Inspector of Police,  
W-4, All Women Police Station,  
Kilpauk, Chennai - 600 010.
3. The Public Prosecutor,  
High Court of Madras.



WEB COPY

CRL OP No. 34745 of 2



**M.NIRMAL KUMAR, J.**

AT

CRL OP No. 34745 of 2025 and  
CRL MP NO. 565 OF 2026, CRL MP NO. 24365 OF 2025

01-06-2026