



Crl.O.P(MD)No.914 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P(MD)No.914 of 2026

Pandiyaraj @ Baskar

... Petitioner/Accused

Vs.

The State of Tamil Nadu,
Rep.by its Inspector of Police,
Ayikudi Police Station,
Tenkasi Taluk,
Tenkasi District.
Cr.No.153/2021.

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records and relating to the order passed in Crl.M.P. No.2932 of 2025 in S.C.No.47 of 2022 dated 25.11.2025 on the file of the Additional District and Sessions Judge (FTC), Tenkasi.

For Petitioner : Mr.S.Mani

For Respondent : Mr.S.Ravi
Additional Public Prosecutor



Crl.O.P(MD)No.914 of 2026

WEB COPY

ORDER

Seeking to set aside the order passed by the learned Additional District and Sessions Judge (Fast Track Court), Tenkasi in Crl.M.P.No. 2932 of 2025 in S.C.No.47 of 2022, dated 25.11.2025, this criminal original petition is filed.

2. The petitioner had filed an application under Section 348 of BNSS, 2023 who is accused in the pending S.C.No.47 of 2022 seeking to recall P.W.1 and cross examine him. The learned counsel for the petitioner submitted that the petitioner herein is the accused in the pending case before the learned Trial Court. On 07.11.2025, the Investigation Officer was examined as P.W.22. The defense had marked Exhibit D.1 a photograph posted by the deceased Karthikvelu in his Instagram through the Investigating Officer who was examined as P.W. 22. But the Investigating Officer instead of giving a straight reply, had given an evasive reply as to the identity of the person in the said photograph which was marked as Exhibit D.1. With respect to the identity of the person in Exhibit D.1, P.W.1, who is the father of the



deceased has to be questioned and certain other relevant questions also have to be put to him. In view of the same, the said application was filed. However, the learned Trial Court had dismissed the same. For ensuring fair trial, the same need to be set aside and the petitioner should be permitted to recall and cross examine P.W.1 and sought for the indulgence of this Court.

3. Per contra, the learned Additional Public Prosecutor categorically contended that there is no infirmity in the order passed by the learned Trial Court and the learned Trial Court has clearly given a finding as to the identity of the person in the marked document which is marked as Exhibit D.1 and hence, the petitioner's attempt to file an application under Section 348 of BNSS is nothing but an attempt to protract the pending trial and sought for dismissal of this case.

4. Heard the learned counsel on either side and carefully perused the materials available on record.



5. A careful reading of the impugned order would certainly throw light on the fact that the pending case is one murder case and the case is pending for 313 (1) (b) proceedings. It is only at this stage, the petitioner had filed an application seeking to recall P.W.1 and for cross examination. As rightly contended by the learned Additional Public Prosecutor that there is a precise finding as to the identity of the person in Exhibit D.1 and the learned Trial Court has also made an observation that whether the said photograph posted in Instagram is relevant to the facts in issue could be decided only after the conclusion of the trial in the main judgment. He had also observed that it is a settled proposition that an application under Section 311 of Cr.P.C / 348 of BNSS must not be allowed to fill up the *lacuna* in the case of prosecution or the defense, and such power must be exercised only when the evidence to be rendered by a witness is genuine to the issue involved, questioning the reasonableness of the petitioner's claim that the said photograph posted by the deceased in the Instagram is relevant.



Crl.O.P(MD)No.914 of 2026

WEB COPY

6. I do not find any infirmity in the impugned order. The petitioner's claim fails and the Criminal Original Petition stands dismissed.

20.01.2026

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

To

- 1.The Additional District and Sessions Judge (FTC),
Tenkasi.
- 2.The Inspector of Police,
Ayikudi Police Station,
Tenkasi Taluk,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P(MD)No.914 of 2026

L.VICTORIA GOWRI, J.

gbg

Crl.O.P(MD)No.914 of 2026
20.01.2026