



Crl.OP(MD)No.1004 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.02.2026

PRONOUNCED ON : 01.06.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.1004 of 2026

and

Crl.M.P.(MD)No.1046 of 2026

1. Gnanasekaran
2. Shanmugasundharam
3. Sundaramoorthi

... Petitioners/Accused

Vs.

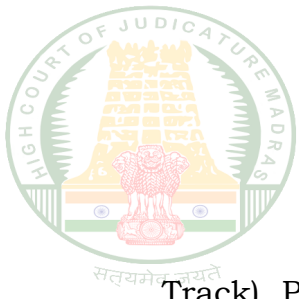
1. The State of Tamilnadu,
Rep by. the Inspector of Police,
Thandikudi Police Station,
Dindigul District.
Crime No. 157 of 2012.

.... Respondent / Complainant

2. Paneerselvam

..... Respondent /
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in connection with the S.C.No. 254 of 2018 on the file of the learned Additional District Judge (Fast



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Track), Palani and quash the additional Charge under section 201 of IPC framed against the petitioners by the learned Additional District Judge (Fast Track), Palani, in S.C.No.254 of 2018 dated 05.12.2025 so far as the petitioners are concerned.

For Petitioners : Mr.S.Sarvaganprabu
For R-1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. side)

ORDER

Prologue:

The present Criminal Original Petition presents a narrow, yet significant, question touching the lawful exercise of the power of a criminal Court to alter or add a charge at the fag end of trial. The petitioners, who are facing trial in S.C.No.254 of 2018 for the alleged offence under Section 302 IPC, have approached this Court challenging the order dated 05.12.2025 passed by the learned Additional District Judge, Fast Track Court, Palani, whereby an additional charge under Section 201 IPC, two counts, came to be framed against them after completion of evidence, after questioning under Section 313 Cr.P.C., after completion of arguments, and when the matter stood posted for judgment.



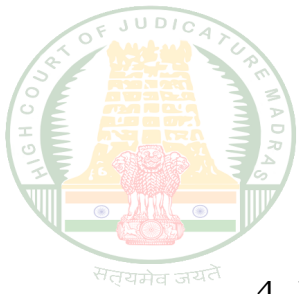
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Case of the prosecution:

2. The prosecution case originates from Crime No.157 of 2012.

Initially, the case was registered under Section 174 Cr.P.C. on the basis of the complaint given by the second respondent / *defacto* complainant regarding the suspicious death of one Varatharajan. During investigation, the case was altered from Section 174 Cr.P.C. to Section 302 IPC, two counts, against the petitioners / accused. Upon completion of investigation, final report was filed and the case was committed to the Court of Session. The learned Additional District Judge, Fast Track Court, Palani, took the case on file in S.C.No.254 of 2018.

3. The prosecution alleges that on 18.10.2012, A-1, along with A-2 and A-3, and the deceased persons, namely Varatharajan and Dhandapani, stayed at Thoppaiyan Kaadu Guest House for a story discussion. According to the prosecution, on 19.10.2012 at about 9.30 p.m., a quarrel arose among the accused and the deceased persons with regard to naming a film.



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4. It is the further case of the prosecution that in the course of the said quarrel, the petitioners attacked Varatharajan, who succumbed to the injuries. Since the other deceased, Dhandapani, had allegedly witnessed the occurrence and might disclose the same, he was also murdered by the accused.

5. The prosecution further alleges that after the occurrence, the petitioners informed the family members of the deceased that the deaths had occurred due to heart attack and handed over the dead bodies to the family members. Since the family of deceased Varatharajan entertained suspicion, the complaint came to be lodged, resulting in the registration and investigation of the case.

Trial proceedings:

6. After committal, the trial commenced in S.C.No.254 of 2018. During trial, the prosecution examined P.W.1 to P.W.20 and marked Ex.P.1 to Ex.P.15. Material Objects M.O.1 to M.O.3 were also marked. After completion of prosecution evidence, the petitioners were questioned under Section 313 Cr.P.C. Thereafter, arguments



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were advanced on both sides. The case was posted for judgment on 05.12.2025.

7. At that stage, the learned Trial Judge invoked Section 216 Cr.P.C. and framed an additional charge under Section 201 IPC, two counts, against the petitioners and posted the case for further proceedings. Aggrieved by the same, the present petition has been filed.

Grounds for quash:

8. The petitioners assail the impugned order on the following grounds:

8.1. Firstly, it is contended that the learned Trial Judge has framed the additional charge under Section 201 IPC without any specific material available on record.



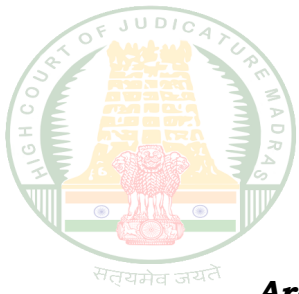
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8.2. Secondly, it is submitted that the prosecution evidence, even if taken at its highest, does not disclose the essential ingredients of Section 201 IPC.

8.3. Thirdly, it is contended that the impugned order does not record any proper reason as to what material persuaded the Trial Court to frame the additional charge at such a belated stage.

8.4. Fourthly, it is submitted that the case had already reached the stage of judgment after examination of witnesses, marking of exhibits, questioning under Section 313 Cr.P.C., and completion of arguments. Therefore, addition of a fresh charge at that stage, without proper safeguards, has caused serious prejudice to the accused.

8.5. Fifthly, it is contended that the power under Section 216 Cr.P.C., though available at any time before judgment, cannot be exercised mechanically or as a matter of course.

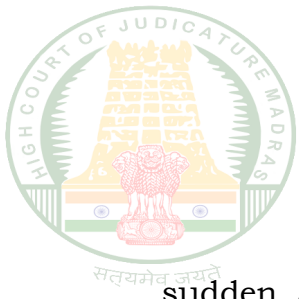


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Arguments on either side:

9. The learned counsel for the petitioners submitted that the impugned order is legally unsustainable. According to the learned counsel, the learned Trial Judge has failed to identify the material on the basis of which the additional charge under Section 201 IPC was framed. It was further submitted that Section 201 IPC requires specific foundational facts, namely, knowledge or reason to believe that an offence has been committed, causing disappearance of evidence of that offence, or giving false information with the intention of screening the offender from legal punishment.

10. The learned counsel submitted that merely because the prosecution alleges that the petitioners informed the family members that the deaths were due to heart attack, the same cannot automatically constitute an offence under Section 201 IPC unless the prosecution establishes that such statement was made with the intention of screening the offender from punishment. It was also submitted that the final report itself was filed for the offence under Section 302 IPC and the trial was conducted on that footing. At the end of the trial, when the matter was posted for judgment, the



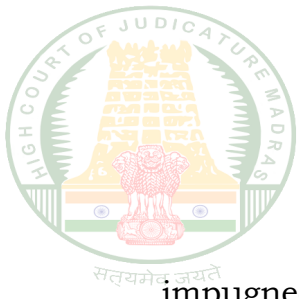
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sudden addition of Section 201 IPC has caused prejudice to the accused.

11. Per contra, the learned Government Advocate (Criminal Side) appearing for the first respondent submitted that the Trial Court is vested with ample power under Section 216 Cr.P.C. to alter or add any charge at any time before judgment is pronounced. It was submitted that the materials available on record disclose that after the alleged occurrence, the petitioners informed the family members that the deaths were due to heart attack and handed over the dead bodies. According to the prosecution, this circumstance is sufficient to frame an additional charge under Section 201 IPC.

12. The learned Government Advocate further submitted that mere framing of an additional charge does not amount to conviction. The accused would be entitled to avail the procedural safeguards under Sections 216 and 217 Cr.P.C., 1973, including recall of witnesses, if necessary. Therefore, it was contended that the



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impugned order does not warrant interference under Section 528

13. The learned counsel appearing for the second respondent / *defacto* complainant adopted the submissions of the learned Government Advocate and submitted that the prosecution should not be prevented from placing the complete culpability of the accused before the Trial Court.

14. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for consideration:

15. The following point arises for consideration in this Criminal Original Petition:

“Whether the order dated 05.12.2025 passed by the learned Additional District Judge, Fast Track Court, Palani, in S.C.No.254 of 2018, framing an additional charge under Section 201 IPC, two



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counts, against the petitioners at the stage when the matter was posted for judgment, is sustainable in law?”

Governing legal principles:

16. Section 216 Cr.P.C. empowers any Court to alter or add to any charge at any time before judgment is pronounced. The provision is enabling in nature. Its purpose is to ensure that the real controversy arising from the evidence is adjudicated and that failure or omission in framing the proper charge does not defeat the cause of justice.

17. However, the power is not unguided. The addition or alteration of charge must be based on material available on record. It must not be speculative. It must not be founded on suspicion alone. It must not be exercised to fill up gaps in the prosecution case.

18. Once a charge is altered or added, the altered or added charge must be read and explained to the accused. If the alteration is likely to prejudice the accused or the prosecution, the Court may



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direct a new trial or adjourn the trial. Further, Section 217 Cr.P.C. confers the right to recall or re-summon witnesses when a charge is altered or added after commencement of trial.

19. Thus, Section 216 Cr.P.C. contains both power and protection. The power is conferred upon the Court; the protection is conferred upon the accused and the prosecution so that the trial remains fair.

20. Section 201 IPC punishes causing disappearance of evidence of an offence or giving false information to screen the offender.

21. The essential ingredients of Section 201 IPC are:

- i. an offence must have been committed;
- ii. the accused must know or have reason to believe that such offence has been committed;
- iii. the accused must cause disappearance of evidence of the



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offence or give false information respecting the offence; and

iv. such act must be done with the intention of screening the offender from legal punishment.

22. Therefore, Section 201 IPC is not attracted merely because an accused gives an incorrect version of the occurrence. There must be material to show a positive act of causing disappearance of evidence or giving false information with the specific intention of screening the offender.

Analysis:

23. The present case is not one where this Court is called upon to assess the guilt or innocence of the petitioners in respect of the principal charge under Section 302 IPC. The trial for the said offence is pending. Therefore, this Court consciously refrains from making any observation touching the merits of the murder charge. The challenge is confined to the additional charge under Section 201 IPC. Hence, the scrutiny of this Court is limited to whether the Trial Court



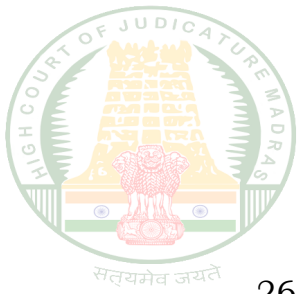
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had sufficient material and recorded proper reasons for invoking Section 216 Cr.P.C. at the final stage of trial.

24. A perusal of the factual matrix shows that the case was initially registered under Section 174 Cr.P.C. and was later altered to Section 302 IPC, two counts. The final report was filed for the offence of murder. The trial proceeded on that basis. Twenty witnesses were examined, fifteen documents were marked, three material objects were produced, the accused were questioned under Section 313 Cr.P.C., arguments were heard, and the case was posted for judgment.

25. It is only at that stage that the additional charge under Section 201 IPC came to be framed. The timing of the order, by itself, may not render the order illegal, because Section 216 Cr.P.C. permits alteration or addition of charge at any time before judgment. However, the later the stage, the greater the duty of the Court to record reasons and ensure that prejudice is not caused.

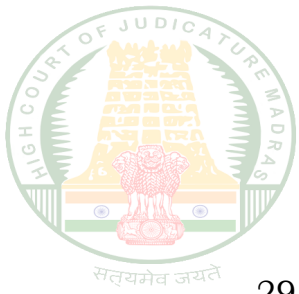


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26. The impugned order must therefore disclose the material which compelled the Trial Court to frame an additional charge under Section 201 IPC. It must indicate whether the Trial Court found any specific act of disappearance of evidence or any false information given with intention to screen the offender.

27. In the present case, the prosecution allegation relied upon for Section 201 IPC appears to be that the petitioners informed the family members of the deceased that the deaths were due to heart attack and handed over the dead bodies.

28. Even assuming that such allegation exists, the Court must still examine whether the same, without anything more, satisfies the ingredients of Section 201 IPC. The law requires not merely a false statement, but a false statement made with the intention of screening the offender. Similarly, if the prosecution relies on disappearance of evidence, the particular evidence allegedly caused to disappear must be identified.



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29. The offence under Section 201 IPC is not a residuary offence to be automatically added whenever an accused is alleged to have given an explanation after the occurrence. It is a distinct offence requiring distinct ingredients. If the prosecution case is that the petitioners murdered the deceased and thereafter misrepresented the cause of death as heart attack, such allegation may be a circumstance relied upon in the trial for the principal offence. But to elevate the same into an independent charge under Section 201 IPC, the Court must find material showing that the petitioners caused disappearance of evidence or gave false information with the intention of screening the offender.

30. The impugned order, as placed before this Court, does not appear to contain a discussion identifying such material. It does not disclose which portion of the evidence of P.W.1 to P.W.20, or which exhibit among Ex.P.1 to Ex.P.15, necessitated the framing of an additional charge under Section 201 IPC.

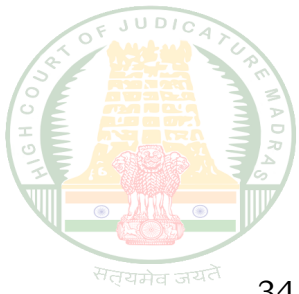


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31. The absence of reasons assumes significance because the trial had reached its terminal stage. When the matter is posted for judgment, and the Court chooses to alter or add a charge, the order must demonstrate heightened judicial application of mind.

32. The accused had already shaped their defence in relation to the charge under Section 302 IPC. They had cross-examined witnesses, answered questions under Section 313 Cr.P.C., and advanced arguments. A new charge under Section 201 IPC, framed at such a stage without a clear foundation, would certainly alter the complexion of the defence.

33. The procedural safeguards under Sections 216 and 217 Cr.P.C. are not empty formalities. They are the statutory embodiment of fair trial. If an additional charge is framed after completion of trial, the accused must be informed not merely of the new charge, but also of the evidentiary basis on which the Court proposes to proceed.



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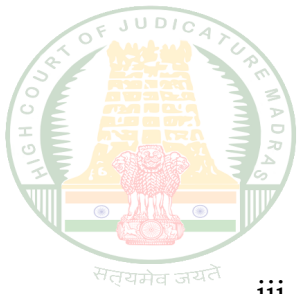
34. In **Anant Prakash Sinha Vs State of Haryana**¹, the Supreme Court recognised that the power under Section 216 Cr.P.C. may be exercised before pronouncement of judgment, but the exercise must be based on materials brought on record and should not cause prejudice to the accused.

35. While considering the scope of Section 216 Cr.P.C., it is pertinent that addition of charge must have nexus with the material on record and cannot be made merely because such power exists. In the present case, the additional charge under Section 201 IPC appears to have been framed without recording a clear nexus between the evidence and the statutory ingredients of Section 201 IPC.

36. The learned Trial Judge was required to ask the following questions before framing the additional charge:

- i. What is the specific evidence alleged to have disappeared?
- ii. Who caused such disappearance?

¹ (2016) 6 SCC 105



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- iii. When and how was such disappearance caused?
- iv. What false information was given?
- v. To whom was such false information given?
- vi. Was such information given with intention to screen the offender from punishment?
- vii. What material on record supports such inference?

37. Unless these questions are addressed at least *prima facie*, an additional charge under Section 201 IPC cannot be sustained, particularly at the stage when the case stood posted for judgment. The power under Section 216 Cr.P.C. cannot be used to improve the prosecution case after the trial has concluded. Nor can it be invoked to create an alternative charge merely because the Court entertains a general suspicion arising from the conduct of the accused.

38. This Court is conscious that interference at the stage of framing charge is ordinarily limited. However, when the impugned order suffers from non-application of mind, absence of reasons, and want of material particulars satisfying the ingredients of the added



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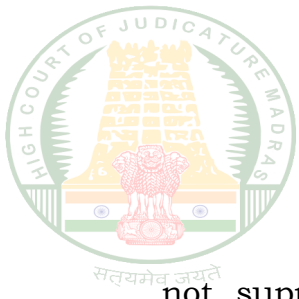
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offence, the inherent jurisdiction of this Court under Section 528 BNSS can be invoked to prevent abuse of process and to secure the ends of justice.

39. It is also necessary to clarify that quashing the additional charge under Section 201 IPC will not affect the trial in respect of the principal charge under Section 302 IPC. The Trial Court shall proceed to decide the case on the basis of the evidence already recorded and in accordance with law.

40. This Court has not expressed any opinion on the merits of the prosecution case under Section 302 IPC. All findings and observations in this order are confined only to the legality of framing the additional charge under Section 201 IPC.

41. In view of the above discussion, this Court finds that the additional charge under Section 201 IPC, two counts, framed against the petitioners by the learned Additional District Judge, Fast Track Court, Palani, in S.C.No.254 of 2018 by order dated 05.12.2025, is



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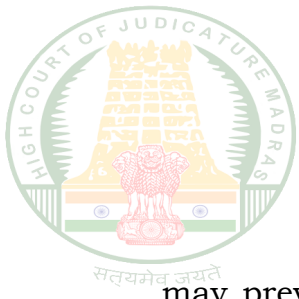
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record.

not supported by a reasoned consideration of the materials on record.

42. The impugned order does not disclose the necessary judicial satisfaction as to the ingredients of Section 201 IPC. The addition of the said charge at the stage when the case was posted for judgment, without identifying the supporting material and without demonstrating absence of prejudice to the accused, cannot be sustained.

43. A criminal trial is not a game of chance. It is a solemn judicial process in which the liberty of the accused, the voice of the victim, and the authority of law must be held in careful balance. Section 216 Cr.P.C. is a powerful tool in the hands of the Court, but every such power carries with it a corresponding duty of restraint, reason, and fairness.

44. The criminal Court may certainly correct an omission in the charge. It may bring the real offence within the frame of trial. It



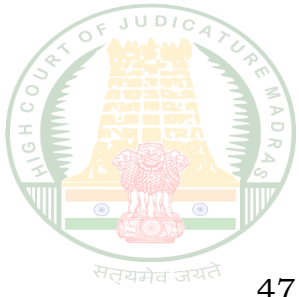
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may prevent failure of justice. But while doing so, it cannot permit the accused to be taken by surprise at the threshold of judgment unless the statute is scrupulously followed and the evidentiary foundation is unmistakably recorded.

45. In the case on hand, the prosecution for the principal offence shall continue to stand on its own evidentiary legs. However, the additional charge under Section 201 IPC, having been framed without sufficient articulation of material and statutory ingredients, deserves to be interdicted.

46. Accordingly, this Criminal Original Petition is **allowed**. The order dated 05.12.2025 passed by the learned Additional District Judge, Fast Track Court, Palani, in S.C.No.254 of 2018, framing an additional charge under Section 201 IPC, two counts, against the petitioners, is hereby quashed insofar as the petitioners are concerned.



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47. It is made clear that the trial in S.C.No.254 of 2018 in respect of the principal charge under Section 302 IPC shall proceed further in accordance with law, uninfluenced by any of the observations made in this order. The learned Trial Judge shall proceed to dispose of S.C.No.254 of 2018 on its own merits and in accordance with law. Consequently, connected miscellaneous petition is closed.

01.06.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

1. The Inspector of Police,
Thandikudi Police Station,
Dindigul District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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