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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28-10-2026

CORAM

THE HONOURABLE MR.JUSTICE D.LINGESWARAN

Crl.A(MD) No.1279 of 2026

CNR:{HCMD011476632026}

Peter @ Antony Peter

..Appellants

Vs

1. The State of Tamil Nadu, Rep by
   The Deputy Superintendent of Police,
   South Police Station,
   Thoothukudi.
   (Crime No.533 of 2019)

2. The Inspector of Police
   South Police Station,
   Thoothukudi.

3. P.Ramkumar

..Respondents

PRAYER: This Criminal Appeal is filed under Section 14-A(2) of SC/ST (PoA) Act, to call for the records pertaining to the order, dated 09.09.2026 passed by the learned Special Court for Trial of Cases under SC/ST (PoA) Act, Thoothukudi in Crl.M.P.No.259 of 2026 in S.C.No.62 of 2020 and set aside the same.

For Appellant : Mr.K.Raghul Priyan

For R1 and R2 : Mr.G.Ganesh Kumar
Government Advocate (Crl.Side)

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JUDGMENT

This Criminal Appeal is filed challenging the order, dated 09.09.2026 passed by the learned Special Court for Trial of Cases under SC/ST (PoA) Act, Thoothukudi in Crl.M.P.No.259 of 2026 in S.C.No.62 of 2020.

2. Heard both sides.

3. The appellant challenges the order of the Trial Court passed under Section 311 of Cr.P.C summoning Dr.Ashok (Residential Medical Officer), who worked in a private hospital (AVM Hospital) to prove an Accident Register which was recorded by him when the injured was brought to the hospital.

4. As per the case of the prosecution and the proposed Accident Register, the injured was brought dead. The said fact was recorded in the Accident Register as per the case of the prosecution.

5. The learned counsel for the appellant assailed the impugned order on the ground that the prosecution shall not be allowed to fill up the lacuna after seven long years. The learned counsel further contended that he had cross examined the witnesses to impeach their credit and some of

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the witnesses have placed the occurrence in different areas. It is only to change the nature of the case that the prosecution is now attempting to produce the Accident Register and prove it through the doctor who allegedly recorded it. It was also contended by the learned counsel for the appellant that the prosecution had not mentioned any good reason for introducing a new witness who was not even examined by the Police, and for introducing of a new document.

6. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondents 1 and 2 submitted that the Accident Register is a material document and the doctor who recorded the same is a material witness to prove the said document. It was further submitted by the learned Government Advocate (Crl.Side) that the Court below considered all these aspects and permitted the prosecution to examine Dr.Ashok to prove the Accident Register recorded by him.

7. This Court has carefully considered the rival submissions.

8. It is a settled position of law that if material evidence is omitted or left out by the prosecution, even the Court can *suo-motu* summon the material / document or the witnesses concerned for proving the relevant fact. In the case on hand, the prosecution has so far not rested its case, the matter is posted for examination of the investigating officer. Immediately

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after the occurrence, the injured person was taken to the nearby private hospital (AVM Hospital), where Dr.Ashok, proposed witness received the injured. As per the statement of PW1 given before the Police under Section 161(3) of Cr.P.C, he has taken the injured to AVM Hospital. The Doctor has recorded that the injured was brought dead to the hospital. Therefore, the prosecution is not changing the nature of the case by producing the Accident Register and summoning the doctor to prove the same. The judgment of the Hon'ble Supreme Court in ***Rajaram Prasad Yadav Vs. State of Bihar and Another reported in 2013 (14) SCC 461*** which lays down 14 guidelines for invoking Section 311 of Cr.P.C, was cited by the learned counsel for the appellant to assail the impugned order.

9. This Court carefully considered the submissions of the learned counsel for the appellant in this regard. The Hon'ble Supreme Court in ***State Vs. N.Seenivasagan (2021 (14) SCC 1),*** held that the true test under Section 311 of Cr.P.C is whether the evidence of person who is sought to be examined or recalled is essential to the just decision of the case or not. In the case on hand, the evidence proposed to be tendered by the prosecution is highly relevant to the issue involved and of course, it will prove from where the injured person was taken to the hospital and who accompanied him. Therefore, examination of Dr.Ashok and proof of the

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Accident Register are highly essential to the just decision of the case. A copy of the Accident Register which is proposed to be exhibited is directed to be furnished to the defence by the Trial Court. The defence will naturally be granted an opportunity to cross examine the witness concerned to challenge the authenticity and validity of the document / Accident Register.

10. In ***Manju Devi Vs. State of Rajasthan (2019 (6) SCC 203)*** the Hon'ble Supreme Court held that the application under Section 311 of Cr.P.C., cannot be rejected on the sole ground that the case had been pending for an inordinate amount of time. In the cited case, the case was pending for ten years. It was held in paragraph 13 as follows:

> *"13.....The length / duration of a case cannot displace of the basic requirement of ensuring a just decision after taking all the necessary and material evidence on record. In other words, the age of the case by itself, cannot be decisive of the matter when a prayer is made for examination of a material witness''.*

11. Therefore, it is necessary to meet the ends of justice, that the prosecution be given all fair opportunities to prove their case. None of the objections raised by the appellant stand in the way of examining

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Dr.Ashok and proving the accident register he recorded.

12. The appellant raised an argument that as per Section 15-A(4) of the SC/ST (PoA) Act, only a victim or his dependent shall have the right to apply to the Special Court to summon witnesses or for production of any document. This contention was also rightly rejected by the Trial Court on the ground that Section 15-A(4) gives an additional power to the victim in case of failure on the part of the prosecution to summon relevant witnesses or documents. A right additionally given to the victim cannot bar the right of the prosecution or Court to summon relevant witnesses or production of material documents to prove their case. Therefore, the argument of the appellant in this regard is rejected. It is also to be noted that the prosecution has wrongly filed the application under Section 230 of Cr.P.C instead of filing the application under Section 311 of Cr.P.C. Quoting a wrong provision of law is not a ground to reject the prayer of a party, the relief can be moulded accordingly by the Court, as the Trial Court has rightly done. Therefore, this objection also cannot be sustained.

13. The Hon'ble Apex Court has already fixed a time limit of 4 weeks from 14.10.2026 to complete the examination of all prosecution

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witnesses. Therefore, the prosecution must ensure that all its witnesses are examined within the stipulated time limit. With the above direction, this Criminal Appeal is dismissed.

28-10-2026

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

Indu

To

1. The Deputy Superintendent of Police
   South Police Station
   Thoothukudi

2. The Inspector of Police
   South Police Station
   Thoothukudi

3. The Additional Public Prosecutor
   Madurai Bench of Madras High Court
   Madurai

Copy To :
Section Officer (VR Section)
Madurai Bench of Madras High Court

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D.LINGESWARAN, J.

Indu

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