

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE AT ERODE

**Present: Tmt.K.Krishna Priya, M.L.,
Chief Judicial Magistrate, Erode.**

Dated this the 26th day of November 2025, Wednesday

**MP. No. 34 of 2025
in
CC No. 374 of 2022**

State represented by
Inspector of Police,
Ammappettai Police Station,
Erode.
Cr.No.373/2005.

.. Petitioner/Complainant

/Vs./

1. Chinnappagounder
2. Pachamuthu
3. Angamuthu @ Thangarasu
4. Semalaigounder

.. Respondents/Accused

This petition came up for final hearing on 21.11.2025 before me in the presence of Additional Public Prosecutor Thiru.N.Ramesh Babu, appearing for the Petitioner/Complainant and Thiru.V.Ramakrishnan, Advocate appearing for the Respondent/Accused and upon perusing the relevant records and upon hearing both side arguments this court deliver the following :

ORDER

This petition is filed by the petitioner u/s. 469 of Cr.P.C.

Heard both sides.

1. The prosecution has filed the present petition seeking permission to examine LW9, the then Inspector of Police, Ammapettai Police Station, through video conference. The reason stated in the petition is that the said witness is presently serving as Assistant Commissioner in the Police Housing and Welfare Office, Vepery, Chennai, and due to his official workload, he is unable to appear in person and depose before the Court.
2. The learned defence counsel has vehemently objected to this request, contending that it is the official duty of the witness to appear before the Court and give evidence in person, and only in such circumstances can an effective cross-examination be conducted to elicit the truth. It is further submitted that the prosecution has not produced any documentary proof to substantiate the claim that the witness is unable to attend the trial in person, nor has it filed any consent letter of the witness for examination through video conference. It was also pointed out that though the affidavit filed by the prosecution refers to an enclosed affidavit, no such document has been filed along with the petition. The defence further argued that appearing before court to discharge the duty of giving evidence cannot be treated as a financial or administrative hardship, and that the application ought to have been filed by the witness himself, and not by the prosecution.
3. The learned Additional Public Prosecutor, on the other hand, submitted that LW9 is not the Investigating Officer in the present case. His name has been inadvertently mentioned in the list of witnesses and on the first page of the final report as the Investigating Officer. However, the final report and other investigation related documents were in fact prepared and signed by LW8, the Sub-Inspector of Police, who actually conducted the investigation. Since that officer has passed away, the prosecution has filed a separate application to examine another Inspector of Police to formally establish the chain of

investigation. As the respondents objected to that petition, LW9 is now sought to be examined only to clarify the prosecution's position that he did not conduct the investigation and was erroneously described as the Investigating Officer. Therefore, his evidence is purely formal in nature.

4. It was further argued that LW9 is currently serving as Assistant Commissioner in the Police Housing and Welfare Department at Chennai, and his official responsibilities make it difficult for him to travel and stay away from office for at least two days. Examining him through video conference would not prejudice the accused in any manner, as the witness is being examined only on a limited and formal aspect. The prosecution also contended that the objection of the defence is only an attempt to delay the proceedings.
5. As regards the contention of the defence that the affidavit filed along with the petition refers to another affidavit said to be enclosed, though no such document has been filed, it appears to be a clerical or drafting error. The affidavit filed itself contains the necessary averments in support of the petition, and the reference to another affidavit appears to be inadvertent. Hence, the said omission is not material.
6. With respect to the argument that it is the official duty of the police officer to appear in person and give evidence, it is to be noted that such duty can also be effectively discharged through video conference. The Madras High Court Video Conferencing Rules, 2020, expressly recognise this mode of examination, and when the circumstances do not warrant the physical presence of the witness, insisting on personal attendance would only cause avoidable delay and serve no useful purpose.

7. Under Rule 4 of the said Rules, an application for examination of a witness through video conference can be filed either by a party or by the witness himself. Hence, the present petition filed by the prosecution is maintainable. The contention of the defence that the prosecution has not produced the consent of the witness is also unsustainable, since there is no such requirement under the Rules.
8. Another contention raised by the learned counsel for the respondent is that the Fingerprint Expert had stated that the police had not examined her and that, since fingerprint evidence is physical evidence, those documents are necessary for confronting the witness. The respondent further contends that LW9 was aware of the alleged irregularities committed by LW8 and therefore LW9's personal presence is indispensable to confront him with the relevant documents and clarify the circumstances of the investigation.
9. It is significant to note that the Fingerprint Expert has already been examined as PW6, and according to the respondents she has stated that she was not examined by the police during the investigation. To confront LW9 with that portion of her testimony, the physical presence of Lw9 is not required, since the relevant facts can be put to him effectively even through video conference. Hence, the unavailability of the material records in this Court does not create any hindrance to his examination.
10. Furthermore, while it is noted that the material records have been placed before the learned Additional District Court in connection with an appeal, that circumstance is only incidental and does not affect the examination of LW9, given the limited and formal nature of his proposed evidence. The Madras High Court Video Conferencing Rules, 2020, particularly Rule 8, provide for effective confrontation and exhibition of documents through video conference, ensuring procedural safeguards for both sides.

11. It is also pertinent to note that the Hon'ble High Court has directed this Court to dispose of the case within a stipulated time. Considering the above facts and the formal character of LW9's proposed testimony, insisting upon his personal presence would only cause unnecessary delay and serve no useful purpose.

12. However, in the arguments and the enquiry of the connected stay petition MP.No. 41/2025 filed by the respondent, the respondent himself has taken a categorical stand that:

- (a) the entire investigation was conducted only by the Special Sub-Inspector (LW8);
- (b) all statements, observation mahazar, rough sketch and the final report are signed only by the SSI; without having powers and so the trial is vitiated.
- (c) LW9 did not conduct the investigation and had no participation in the investigation; and only his name appears in the list of witnesses and on the top of the final report and so his examination is not going to serve any purpose.

13. Thus, the respondent has expressly admitted that LW9 played no role in the investigation. Once the accused himself takes such a stand, the factual issue which the prosecution intends to clarify through LW9 stands admitted and undisputed.

14. In that situation, summoning LW9, whether in person or through video conference would not advance the trial, would not clarify any material fact in dispute, and would only prolong the proceedings. The proposed evidence of LW9, being purely formal, becomes unnecessary when the fact sought to be proved is admitted by the opposite party.

15. In view of the respondent's own admission regarding LW9's non-involvement in the investigation, this Court finds no necessity to examine LW9 in any mode. Accordingly, the petition seeking permission to examine LW9 through video conference stands dismissed.

In the result this petition is dismissed.

// Dictated to the Steno typist, directly typed by her in the computer, checked, corrected and pronounced by me in open Court, on this 26th day of November 2025.//

**Chief Judicial Magistrate,
Erode.**