

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE AT ERODE**

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

Dated this the 26<sup>th</sup> day of November 2025, Wednesday

**MP. No. 41 of 2025  
in  
CC No. 374 of 2022**

A3. Angamuthu @ Thangarasu

**.. Petitioner/3rd Accused**

/Vs./

State represented by  
Inspector of Police,  
Ammappettai Police Station,  
Erode.

**.. Respondent/Complainant**

This petition came up for final hearing on 21.11.2025 before me in the presence of Advocate Thiru.V.Ramakrishnan appearing for the Petitioner/Accused 3 and Additional Public Prosecutor Thiru.N.Ramesh Babu, appearing for the Respondent/Complainant 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/3rd Accused u/s. 309 of Cr.P.C.

Heard both sides.

1. The petitioner has filed the present petition under Section 309 CrPC read with Section 531 BNSS, praying that the petition for stay be admitted and the case be dismissed. In the opening paragraph, the petitioner states that he is filing this application seeking a stay of the ongoing trial proceedings. The petitioner contends that the prosecution seeks to examine LW9, the alleged Investigating Officer, through video-conference and that the prosecution cannot deviate from the procedure and scheme already followed by the Court, which is duty-bound to ensure fairness of trial and protection of the rights of the accused. It is further alleged that this Court was forbidden from taking cognizance on the report filed by the Special Sub-Inspector, who is said to be unauthorised to file a final report in law, rendering the cognizance itself invalid. The petitioner submits that LW9's name appears only once in the list of witnesses and in all the case records only the seal of the Special Sub-Inspector, thereby showing that LW9 had no role in the investigation and no material connection to the prosecution case, and that calling him at this stage would not assist either the prosecution or the Court.
2. The petitioner also challenges the credibility and competency of PW6, the fingerprint expert, stating that she admitted she was never examined by the police, that she does not possess a valid certificate of practice, that her evidence does not conform to the twelve-point Galton standard for fingerprint comparison, that she is not a member of any recognised fingerprint society nor certified by the Government, and that she lacks the technical or computer proficiency required for fingerprint examination. On this basis, it is contended that the prosecution case stands falsified.
3. With respect to the final report, the petitioner asserts that it is signed solely by the Special Sub-Inspector, who is not authorised to conduct investigation

in a cognizable offence or to file a charge sheet. Reliance is placed on the decision of the Madras High Court in *S. Rajasekaran v. State*, 2016 SCC OnLine Mad 27995, which held that a Special Sub-Inspector has no power to file a charge sheet under the Cr.P.C., and therefore the entire case is alleged to be vitiated.

4. The petitioner invokes the maxim *actus curiae neminem gravabit*, arguing that once such a fundamental illegality is brought to the notice of the Court, the proceedings cannot be permitted to continue as no party should suffer due to an act of the Court, and that continuing a trial based on defective cognizance would cause grave prejudice to the accused. The petitioner relied upon the Judgment In *Re Periyaswami Muthiryan*, AIR 1924 Mad 888, and argued that in this case it was observed by the Court, that the Bench Court has the power to stay the trial of a criminal case, which according to the petitioner justifies the exercise of such power in the present case on the ground of miscarriage of justice. Further reliance is placed on the decisions in *Taylor v. Taylor*, *Naseer Ahmed v. Emperor*, and *Ramachandra Kesar Adke v. Govind Joti Chavare* to contend that when law prescribes a specific manner of performing an act, it must be performed only in that manner, and that deviation from such mandatory procedure vitiates the proceedings. On these grounds, the petitioner seeks stay of the trial and dismissal of the case.
5. The trial has already progressed substantially and only the examination of the police officials remains. At such an advanced stage, interrupting the proceedings on an interlocutory application would be unwarranted. The legality of cognizance, the competence of the Special Sub-Inspector, and the alleged defect in the investigation, the qualification of PW5 and the evidentiary value of PW5's report are issues which can be examined comprehensively at the stage of final judgment, since the trial is almost

complete. Whether such alleged irregularity is curable or otherwise also requires a full appreciation of the evidence, which is not possible at this interim stage.

6. The petition is internally inconsistent. While the prayer seeks dismissal of the case, the averments indicate that the application is one for stay of proceedings. Even during enquiry, the arguments advanced were only in support of staying the trial, and no submissions were made seeking dismissal of the case as prayed for. Further, the petition does not specify the duration, scope, or conditions of the proposed stay, making the request indefinite and open-ended. Such a plea cannot be entertained. The manner in which the relief has been framed and argued clearly suggests that the petition has been filed with the intention of stalling the progress of the case.
7. The petitioner's stand in relation to the question whether LW9 has to be examined or not, is also inconsistent. When the prosecution initially sought to examine the present Inspector of Police, since the Special Sub-Inspector who had conducted the investigation and filed the final report had passed away, and LW9's name had been erroneously included in the list of witnesses, the petitioner objected and insisted that LW9 must be examined. Acting on this objection, the prosecution filed a petition to examine LW9 through video-conference. The petitioner then opposed that application too, contending that LW9 must appear in person for effective cross-examination. Having earlier maintained that LW9's examination was essential and that he must be physically produced, the petitioner now takes the opposite stand that examining LW9 is unnecessary. This shifting position, coupled with the fact that none of these objections were raised at earlier stages despite cognizance having been taken long ago, makes it evident that the present application is belated and appears intended to delay the proceedings rather than to address any genuine legal infirmity.

8. The reliance placed on In Re Periyaswami Muthiryan is misplaced. That decision recognises the power of the High Court to stay criminal proceedings in exceptional situations under its supervisory jurisdiction. It does not confer upon a trial court the authority to halt a nearly-concluded trial on grounds which can be fully addressed at the stage of judgment. The other authorities cited also do not support the proposition that the trial must be stayed at this stage, particularly when the alleged procedural irregularities, even if assumed for consideration, are all questions that can be examined after the entire evidence is recorded.
9. All issues raised by the petitioner regarding the legality of the investigation, the competence of the Special Sub-Inspector, and the evidentiary value of PW6 are left open to be decided at the stage of final judgment, after completion of the trial. In view of the above, the petition seeking stay of proceedings and dismissal of the case is 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 26<sup>th</sup> day of November 2025.//

**Chief Judicial Magistrate,  
Erode.**