

In the Court of Principal Sessions Judge, Kanniyakumari District
at Nagercoil.

Present : Thiru B. Karthikeyan, B.L.,
Principal Sessions Judge.

Wednesday, the 12th day of March, 2025.

M.P. No. 3/2025 in S.C.No. 21/2024

Petchi @ Esakkimuthu,
S/o Nagarajan

... Petitioner/Accused

/Vs./

State of Tamil Nadu,
Through the Inspector of Police,
Vadasery Police Station,
Rep. by the Public Prosecutor,
Nagercoil.

... Respondent/Complainant

This petition is coming on this day for hearing before me in the
presence of,

Thiru N. Sivakumar .. Advocate for the petitioner

Thiru P. Linus Raj .. Public Prosecutor for the respondent

and upon hearing both sides and upon perusing the materials available on
record, this Court delivered the following :-

ORDER

This petition has been filed on behalf of the accused seeking direction to the respondent/police to collect and produce,

i) the entire CCTV video footages from the cameras fixed in front of Sathyam Hospital from 28.08.2023, 8.00 P.M. to 29.08.2023, 10.00 P.M.

ii) the CCTV video footages collected from Sathyam Hospital and shown to the petitioner during enquiry on 29.08.2023 by police officers, Inspector Thirumurugan, Sub Inspector Saravanakumar and SSI Sivaji in their mobile phone.

iii) the entire CCTV video footages from the cameras fixed in Vadasery Police Station from 29.08.2023 4.00 A.M. to 29.08.2023 10.00 P.M.

iv) the tower locations and call details of the phone numbers of P.W.1. 9942899048, 8667609174 (as stated in page No.4 of his deposition on 05.09.2024) from 28.08.2023, 8.00 P.M. to 29.08.2023, 10.00 P.M.

2. The claim of the petitioner is that during enquiry, the respondent police showed a CCTV video footage allegedly seized from Sathyam Hospital, Veturnimadam, Nagercoil to the petitioner herein and also two other persons namely Shanmugakrishnan @ Kishore and Aravind who were said to have been brought to the Police Station in connection with

the enquiry immediately after the death of the victim in the present case. It is the further claim of the petitioner that they were enquired about the two unknown persons seen in the video who allegedly caused grievous injuries to the deceased Manoj and took him in a two wheeler and left him in an unconscious stage in front of Sathyam Hospital and sped away. The petitioner replied to the police officials that the persons seen in the video are not known to him. While this being so, using their influence, Shanmugakrishnan @ Kishore and Aravind came out of the police station through their advocates. But the present petitioner was implicated in the offence of murder of Manoj by the police who were unable to trace the real culprits and succumbing to the mounting pressure putforth by the family of the deceased Manoj. It is the claim of the petitioner that the prosecution had intentionally concealed the CCTV video footage before the eye of law and had filed a hurried charge sheet which has been taken on file by this court. This apart, it would be contended that P.W.1. Rajagopal had deposed in line with the fabricated false story of respondent police that he took the deceased Manoj to Sathyam Hospital in the two wheeler of P.W.8, Ajai, contending that the above CCTV Video footage would disprove the same besides that eliciting the tower locations and call details of the phone numbers of P.W.1. 9942899048 and 8667609174 for the period from 8.00

P.M. on 28.08.2023 to 10.00 P.M. on 29.08.2023 would disprove the claim of P.W.1. Claiming thus, the present petition has been filed.

3. The respondent State has filed a counter statement contending that the documents (i) and (ii) sought for are not available with the police and in fact the Investigation Officer had stated that he had not collected any CCTV video footage and during his investigation he did not view the CCTV video footage of Sathyam Hospital and that he did not ascertain the persons who brought the deceased manoj by seeing the CCTV video footage. In respect of document No.(iii) CCTV video footage of Vadasery Police Station is concerned, it would be claimed by the respondent that the recording will be available only for the period on 28 days. As far as the document No. (iv) i.e call details of mobile numbers 9942899048 and 8667609174 are concerned, it would be contended by the respondent that they are irrelevant too the case. It is the claim of the respondent that there are several telephone towers of the same company in the heart of Nagercoil city, where the occurrence took place and the tower location may differ from time to time. According to them, this court cannot come to any conclusion on the basis of tower location. Moreover the call details of the witness is a confidential one. So the accused is not entitled to call for those documents.

4. Heard both. Perused the materials available on record.

5. **The point for consideration is :-**

(i) Whether the present petition deserves to be allowed ?

6. **Point for consideration :-**

With regard to the CCTV footage in the Sathyam Hospital is concerned the doctor/Promoter of Sathyam Hospital Mr.Prabhakaran who was examined as P.W.9 had categorically stated that the CCTV video footage would be available only for a period of six months, besides that the police did not enquire about the CCTV video footage with him during investigation. Similar is the claim of P.W.16 Investigation Officer also. It is his statement that he did not obtain and peruse the CCTV video footage of Sathyam Hospital. The petitioner has also not produced any other material in support of his contention that CCTV video footage are available with Sathyam Hospital or that they are available with the police. When both the doctor from Sathyam Hospital and Investigation Officer , stated before this court that no such CCTV video footage is available, the present petition with regard to the CCTV video footage in Sathyam Hospital deserves to be dismissed.

7. Similar is the claim of the petitioner that the CCTV

video footage was played by the Sub Inspector of Police and others in their mobile phone. Except the ipsi dixit of the petitioner, no other material is available to corroborate the said claim. Further no details of the mobile phones which were allegedly used for displaying the CCTV video footage has been stated in the FIR or this petition. Merely by stating P.W.9 had displayed the CCTV video footage some two years back, that too, without any material, it cannot be ground to direct the police to recover the mobile phone cameras from Sathyam Hospital.

8. With regard to the CCTV video footage in the Vadasery Police Station is concerned, the respondent police has stated that the CCTV video footage would be available only for 28 days and it appears probable. Therefore, the request in this regard also deserves to be dismissed.

9. With regard to the call details and other particulars with regard to the phone numbers 9942899048 and 8667609174, this court finds that it is an attempt of the petitioner to establish that P.W.1. and P.W.8. were not available near Sathyam Hospital on 28.08.2023 and thereby to disprove the claim of the prosecution that it was P.W.1 and P.W.8 who brought the deceased Manoj to Sathyam Hospital. Though the respondent has claimed that the call details and tower location may not be accurate, this cannot be accepted. It is settled principle of law that the location of the mobile phone

can be traced with pin point accuracy as the mobile phone signals will reflect the exact location. As such, this court is of the view that the present petition deserves to be allowed partly.

10. However, the petitioner has not provided the name of the service provider. Therefore, if the petitioner provides the names of the service provider and pays, appropriate witness batta, summons shall be issued to the witnesses for production of documents and to adduce evidence.

11. In the result, this petition is partly allowed with a direction to the petitioner to furnish information about the service provider in respect of phone Nos. 9942899048 and 8667609174 within three days from today, upon which, summons shall be issued to the witnesses concerned. This petition is dismissed in respect of other reliefs.

Dictated to the Steno-typist, transcribed and typed by her, corrected and pronounced by me in open court this the 12th day of March, 2025.

Sd/-B. Karthikeyan
Principal Sessions Judge,
Kanniyakumari at Nagercoil.

Principal Sessions Court,
Kanniyakumari at Nagercoil.
Fair Order in
M.P. No.3/2025in
SC No.21/2024
Dt: 12.03.2025