

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

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

Thursday, the 11th day of September, 2025.

M.P. No. 4/2025 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 10.09.2025 for final 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 and having stood over consideration till this day, this Court
delivered the following :-

ORDER

This petition has been filed on behalf of the accused praying

for recalling D.W.1. with a direction to produce,

a) the subscriber name, Father's name, address pertinent to the suspicious number 6381916024 on 28.08.2023,

b) the subscriber name, Father's name, address and the SIM location, CDR, tower location and call details pertaining to mobile number 8883387630, 9488624709 from 22.08.2023, 6.00 A.M. to 28.08.2023, 10.00 P.M.

2. The claim of the petitioner is that while during cross examination, P.W.1. claims that he informed his father about the death of the victim around 9.30 P.M. from his mobile number 9943155709. A perusal of Ext.D.1 produced by D.W.1. shows that on 28.08.2023 between the alleged time of occurrence and before making outgoing calls to his father as stated by P.W.1, there were incoming calls from his father and another number 6381916024 which according to the petitioner is contradictory to the deposition of P.W.1. According to the petitioner, it confirms the false implication of the petitioner in the case by allowing the real culprits to escape from the eye of law. The petitioner would further claim that the subscriber name, father's name, address pertinent to the suspicious number 6381916024 are to be produced before this court to prove the innocence of the accused. Similarly, contending that in order to elicit facts before this court that two unknown persons attacked the

deceased, causing grievous injuries to him and took him in a two wheeler and left him in an unconscious state in front of Sathyam Hospital, Vettoornimadam and sped away, the name of the subscriber, father's name, address and the SIM location, CDR, tower location, and call details pertaining to mobile No. 8883387630, 9488624709 used by the deceased are to be produced in order to prove the innocence of the accused.

3. The learned Public Prosecutor filed a counter statement strongly disputing the contents of the petition. It would be contended that the date of occurrence is 8.15 P.M. on 28.08.2023 and P.W.1 had received a phone call at 22:10:09 on 28.08.2023 from mobile number 8281889282 to his mobile number 9942899048. Likewise, P.W.1. received another phone call at 20:50:23 on 28.08.2023 from the mobile number 6381916024 to his mobile number 8667609174. After this, PW.1 received calls from his father's mobile number 9943155709 at 20:52:20 to his mobile number 8667609174. Therefore, according to the learned Public Prosecutor, it is clearly proved that P.W.1. did not receive any phone call from 8.00 P.M. to 8.50 P.M. on 28.08.2023. P.W.1. received calls only after 37 minutes of the occurrence. Therefore, the call details of the mobile numbers 6381916024 and 9943155709 will not be useful for this case. Moreover, P.W.1. had deposed that the location of the holder of mobile phone cannot

be identified with the help of CDR report. This petition is filed only for dragging under the proceedings.

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 :-**

As rightly pointed out by the learned Public Prosecutor, the defence witness D.W.1. had deposed to the effect that it is always possible for mobile number to get connected to a distant tower also, if the call traffic was heavy. Therefore, merely based on the CDR report, the location of the mobile phone cannot be identified accurately. Therefore, for this purpose, the present petition cannot be allowed.

7. However, the petition has been filed not only for this purpose, but also for other purposes as narrated above. During the course of argument, the learned counsel for the petitioner would state that it is their information that the mobile number 6381916024 belongs to P.W.2 and that if the claim of the prosecution that P.W.1, P.W.2 and P.W.3. along with one Ajai had taken the deceased Manoj to the hospital together, there was

no need for making such a call by P.W.1 to P.W.2. According to the learned counsel for the petitioner, this shows that P.W.1. was not present with the deceased or P.W.2., who were claimed to have gone to the hospital. Similarly, if the details related to mobile numbers 8883387630 and 9488624709 are called for, it would throw light on the fact about the individuals who were in touch with the deceased during the relevant period, besides identifying his locations.

8. Though the learned Public Prosecutor would contend that this petition is vexatious and to drag the proceedings by pointing out that only upon the petitioner's application, D.W.1. was already summoned with direction to produce the call records with number and this attempt of the petitioner made now is nothing but fishing expedition which cannot be permitted, this court is of the view that the petitioner who is facing a grave charge, with capital punishment staring at him, it would be appropriate to give all the opportunities that are required for him to prove his defence. Even if the location cannot be identified with a certainty, it is always possible to know as to who had made calls to the deceased, defacto complainant and P.W.1. If the petitioner is of the view that it would be of any help in establishing his innocence, this court, should believe the same

and provide an opportunity. To ask him to spell out in detail, as to how this would help him would be unfair, as it may be possible to allege that this has enabled the presentation to preparing the witnesses accordingly. As such, this court is of the view that the present petition deserves to be allowed.

9. In the result, this petition is allowed. Issue summons to D.W1 for production of the subscriber name, Father's name, address of the mobile number 6381916024 on 28.08.2023 and the subscriber name, Father's name, address and the SIM location, CDR, tower location and call details of the mobile number 8883387630, 9488624709 from 22.08.2023 at 6.00 A.M. to 28.08.2023 at 10.00 P.M. and to give evidence related to the same.

Dictated to the Steno-typist, transcribed and typed by her, corrected and pronounced by me in open court this the 11th day of September, 2025.

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

Principal Sessions Court,
Kanniyakumari at Nagercoil.
Fair Order in
M.P. No.4/2025in
S.C. No. 21/2024
Dt: 11.09.2025