

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

Present : Thiru K. Dhanasekaran, M.L., L.L.M.
Principal Sessions Judge.

Thursday, the 25th day of June, 2026.

Crl.M.P. No.598/2026

(CNR No.TNKK01-000957-2026)

Selvan @ Maria Selvan S/o. Rayappan

... Petitioner/Appellant/
Defacto complainant

/Vs./

1. The State of Tamil Nadu,
through the Inspector of Police,
Colachel Police Station,
Rep. by the Public Prosecutor,
Nagercoil.
2. Durai Raj S/o. Thanga Nadar (A1)
3. Dharma Raj S/o. Thanga Nadar (A2)
4. Thanga Raj S/o. Thanga Nadar (A3)
5. Jayin S/o. Sundar Raj (A4)
6. Balakrishnan S/o. Dharma Raj (A5)
7. Vaikundakannan S/o. Dhurai Raj (A6)
8. Pevin S/o. Thanga Raj (A9)
9. Vaikundamoni S/o. Dhurai Raj (A10)
10. Anbazhagan S/o. Dharma Raj (A11)
11. Sindhu D/o. Sundar Raj (A12)
12. Rani W/o. Sundar Raj (A13)

... Respondents/Complainant/
Accused

This petition came up on 17.06.2026 for final hearing before me in the presence of Thiru M. Ashok Padma Raj, Advocate for the petitioner and Thiru P. Linus Raj, Public Prosecutor for the 1st respondent and Thiru N.A.G. Thambiraj, Advocate for the respondents 2 to 12 and upon hearing and upon perusing the materials available on record and having stood over for consideration till this day, this Court delivered the following:

ORDER

This petition has been filed praying for condonation of delay of 623 days in filing the criminal appeal challenging the judgment of acquittal passed by the Subordinate Judge, Eraniel in SC No.171/2017, dated 21.11.2023

2. The petitioner claims that he is the defacto complainant in SC No.171/2017 on the file of Subordinate Judge, Eraniel and he filed the criminal appeal against the judgment of acquittal passed on 21.11.2023. At that time, since he was unwell, he was unable to stand and undergoing treatment at hospital in Chennai. Therefore, he was unable to meet his counsel to file appeal in time. Later, he also served a one month sentence in another one case. Therefore, there is a delay of 623 days in filing criminal appeal and the delay is neither wilful nor wanton. Claiming thus, the present petition has been filed.

3. The 2nd respondent filed a counter, which was adopted by the respondents 3 to 12, stating that the allegation that during the time of judgment, the petitioner was unwell and was unable to stand and undergoing treatment at hospital in Chennai is not correct, since the petitioner has not stated in which hospital, he was undergoing treatment. So, the delay is neither wilful nor wanton is not correct. Section 5 of the Limitation Act is not application to the facts of this case and the petition is liable to be dismissed in limini. Section 149 Cr.P.C. is appeal provision in case of acquittal and in which sub section 5 is, no application under sub section 4 for the ground of Special Leave to Appeal from an order of acquittal shall be entertained by the High Court after the expiry of 6 months, where the complainant is a public servant, has 60 days in every other case, computed from the date of that order of acquittal. From this, it is very clear that the complainant shall file appeal within 60 days in every other case from the date of order of acquittal. Claiming thus, they seek dismissal of the petition.

4. Heard both side. Perused the materials on record including the written arguments filed on either side.

5. **The point for consideration that arises in this petition is :-**

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

6. Point (i) :-

The petitioner claims that he is the complainant in the case in SC No.171/2017 on the file of Subordinate Judge, Eraniel and the trial court has acquitted accused persons/respondents 2 to 12 on 21.11.2023 and at that time, he was undergoing treatment at hospital in Chennai and later he also served one month sentence in another one case and therefore, he was unable to meet his counsel to file appeal in time, so that there is delay of 623 days in filing the Criminal Appeal and the delay is neither wilful nor wanton. Though the respondents 2 to 12 filed a counter disputing the claim of the petitioner, there is no material to disbelieve the claim of the petitioner. Further, the petitioner/appellant is the complainant in the Sessions Case. Therefore, considering the reason stated by the petitioner, this court is of the view that the matter is disposed of on merits. Considering the above, this court finds that the present petition deserves to be allowed with condition.

7. In the result, this petition is allowed on condition that the petitioner shall pay a sum of Rs.2,000/- to the Advocate Clerk Fund, Nagercoil on or before 08.07.2026, failing which, the petition shall stand dismissed. Call on 09.07.2026.

Dictated to the typist, typed by her, corrected and pronounced by me in open court this the 25th day of June, 2026.

Principal Sessions Judge,
Kanniyakumari at Nagercoil.

Principal Sessions Court,
Kanniyakumari at Nagercoil.
Fair Order in
Crl.M.P. No.598/2026
Dt: 25.06.2026