

In the court of the Communal Clash Cases, Madurai
Present: **D.Jeyakumari Jemi Rathna, B.Com., B.L.**,
District and Sessions Judge
Communal Clash Cases Court, Madurai
Dated this the 17th Day of March 2026, Tuesday

Crl.M.P.No. 2/2026
in
C.C.No.157/2018

Ramakrishnan,
S/o.Karuppiah ,
Meenakshi nagar 6th street,
Villapuram

...Petitioner/Accused

- /Versus/-

The State through the Sub-Inspector of Police,
Avaniyapuram Police Station,
Madurai District.
Crime No.2398/2016

...Respondent/Complainant

This petition filed u/s 348 BNSS is coming on this 17th Day of March 2026 before this Court in the presence of Thiru. K.Manikandan, Advocate for the petitioner and Thiru.R.Ramasubramanian, Special Public Prosecutor for the State and having stood over for consideration this Court delivered the following:-

ORDERS

Petition averments in nutshell:

The prosecution has examined Pw1 and Pw2 on 01.09.2025 and Pw3 on 19.02.2025. On that date senior counsel suffering from ill health. He is not able to cross examine that said witnesses. Non cross examination of the above Pw1, Pw2 and Pw3 is neither wilful nor wanton. They are the key witnesses and the cross examination is just

and necessary for the proper decision of the case. If they are not cross examined, the petitioner right will be seriously prejudiced. Therefore prayed to allow the petition.

Despite sufficient opportunity Respondent/Prosecution, did not come forward either to file counter or to argue the petition.

Point for consideration:

Whether this petition is to be allowed?

The contention of the petitioner is that Pw1, Pw2 and Pw3 were not cross examined. But cross examination of the above witnesses are very much necessary.

On perusal of Material Records it seems, those three prosecution witnesses Pw1, Pw2 and Pw3 were examined on different dates and not on a single or same day. If really as the Senior counsel due to ill health, could not attend court and not able to cross examine, Prosecution witness, he ought to have made other arrangements. Without doing so, when the case stands posted for defence evidence has come forward with this petition. It is pertinent to note that this case is of the year 2018. It is for the defence side to urge for disposal. Strangely, here, defence side is interested to drag on the case rather than disposing the same.

On perusal of deposition of Pw3 it has been recorded the presence of defence counsel and his omission to cross examine that witness. It has been recorded as follows.

“ எதிரி ஆஜர், எதிரி வழக்கறிஞர் ஆஜர். சந்தர்ப்பம் அளித்தும் குறுக்கு விசாரணை செய்யவில்லை”

But in the petition, there is no explanation, as to why he did not chose to cross examine Pw3 despite his presence.

Why the petitioner has come forward with this petition is not mentioned in the petition. Whether he is going to testify the credibility of the witness on going to uncover the inconsistencies or going to clarify ambiguity and prove it is the vague testimony or going to elicit favourable information.

Failed to show this court as to how the recalling of the said witness will help the court in reaching at a just and fair conclusion is clear

It is well settled principle that this section shall be used sparingly, judiciously and capriciously.

The object of this section is that there may not be failure of justice on account of mistake of either party in bringing the Valuable evidence, on record or leaving in the statement of the witness examined from either side.

The determination factor is whether it is essential to the just decision of the case.

In AIR 2001 SC 2028, in N.G. Dastene Vs Srikant s. Shind, it was held by our Most Hon'ble Supreme Court that seeking adjournment for postponing the examination of witnesses who were present without making other arrangements for examining such witnesses is a dereliction of duty as advocate and to the court amounting to misconduct.

On the above said circumstances, this court has come to the conclusion, that his petition is devoid of merits and is liable to be dismissed.

In the result, Petition is dismissed.

Hand written by me and typed by Typist in computer and corrected and pronounced by me in open court, on this the 17th Day of March 2026

District and Sessions Judge,
Communal Clash Cases Court,
Madurai

