

**IN THE COURT OF THE JUDICIAL MAGISTRATE, THIRUVADANAI.**

Present : Thiru. J. Antony Rishandev, B.B.A., L.L.B (Hons).
Judicial Magistrate,
Thiruvadanai.

Dated, Thursday the 04th day of June 2026

Cr.M.P. No. 295/2026
in
C.C.No. 122/2024

1. Kalil Rahuman
2. Kayethe Millath
3. Yasar Arafath
4. Naina Mohamed
5. Muthu Mohamed
6. Rajathkhan
7. Farook
8. Seeni Umar Katha
9. Ali Akbar
10. Ilman Khan
11. Anvar Deen
12. Asan Ali
13. Ameer Kaja
14. Sulaiman
15. Mohamed Ragumankan
16. Sheik Afsar

..... Petitioners/ A1 to A16

/Vs/

State through Sub Inspector of Police,
Thiruppalaikudi Police Station,
Cr.No.141/2024
U/s.189(2),296(b),118(1),351(3) BNS

..... Respondent / Complainant

This petition came up for hearing before me on 04.06.2026 in the presence of Advocate for the Petitioners/Accused Thiru.N.Vinothkumar and Muthumari APP Grade – I upon perusing the documents and hearing, both sides this Court makes the following,

ORDER



1. This order is passed upon a petition filed by the Petitioners, A1 to A16 seeking to split the proceedings against A17 under Section 355(2) of the BNSS. Summons has been still not served upon A17 in this case. The petitioners, who are A1 to A16 in this case, have been regularly attending the court hearings. However, summon could not be served upon A17 despite diligent efforts.

2. The prosecution has also confirmed that despite diligent efforts, summons have not been successfully served on A17. However, the prosecution placed strong objection to this petition stating that the trial would be affected if this petition is allowed. The charges faced by A1 to A16 are under Sections 189(2), 296(b), 118(1), 351(3) BNS. Given the absence of A17 and the procedural difficulties in serving him summons, the petitioners has requested that the proceedings against A17 be split up to ensure a timely trial for A1, to A16 thereby avoiding any undue delay in the administration of justice.

3. Consideration of Legal Provisions and Precedents

(a) Section 355(2) of the BNSS grants the court the discretion to proceed with the trial in the absence of the accused if it is just and proper to do so. It also allows the court to separate the trial against an accused who cannot be present for reasons considered valid by the court. In the present case, the persistent absence of A17 due to his residence out of the station justifies the invocation of this provision.

(b) The Hon'ble Supreme Court and various High Courts have emphasized the principle that justice delayed is justice denied. In situations where the presence of one of the accused is not immediately feasible due to legitimate reasons such as being out of station, it is well-settled that splitting the proceedings is an appropriate measure to avoid delay and to ensure a fair and expeditious trial for the other accused who are ready to face the court.

4. Findings of the Court

(a) After a careful examination of the records and submissions made by both the petitioners and the prosecution, it is evident that A1 to A16 has complied with all legal



requirements by regularly appearing before this court. The non-service of summons upon A17, poses a significant impediment to the timely conclusion of the trial. The court is satisfied that continuing the proceedings against A1 to A16 while awaiting A17 appearance would be unjust and would result in unnecessary delay.

(b) Thus, in light of the facts, circumstances, and the need to deliver timely justice, this court finds it appropriate to split the case against A17 from the proceedings involving A1 to A16.

5. Order

(i) The petition filed by A1, to A16 is hereby allowed.

(ii) The proceedings against A17 is to be split from the Calender Case in accordance with Section 355(2) of the BNSS.

(iii) The Registry is directed to allot a fresh Calender Case for the split case concerning A 17.

Dictated to the Typist, directly typed by her in computer, corrected and pronounced by me, this the 04th day of June 2026.

Judicial Magistrate,
Thiruvadanai.