

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

Present: Thiru. P.Aasay Marudhu, B.A., L.L.B.,

Judicial Magistrate [F.A.C], Theni.

Friday, the 27th day of March, 2026**CrI.M.P. No.7451/2024****CNR No.TNTH020094672024**

M. Subburam

....Petitioner/Defacto Complainant

//Vs//

State

Rep by Inspector of Police,

Theni Town Police Station,

(Crime No:880/2018)

.... Respondent

A1) Jehadheesan,

A2) Vanaja,

A3) Thamas Raj,

A4) Sudhakaran

.... Accused

When this petition came up for hearing today, the learned counsel for the petitioner/defacto complainant, Mr. R.K. Murugaraj, M.A., B.L., appeared; and the learned Assistant Public Prosecutor appeared for the State and Mr. K. Dharmakodi for the Accused1 to 4. After hearing the arguments of both sides and perusing the records, this Court passes the following...

Order

1) The petitioner/defacto complainant has filed this petition under section 339(2) of the BNSS Act seeking permission for his private counsel to appear and assist the Assistant Public Prosecutor when the case in Crime No.880 of 2018 of Theni Town Police Station is taken up for trial before this Court.

2) Gist of the petition

The petitioner is the first prosecution witness in this case. Based on the

complaint lodged by him seeking action against the accused persons, Theni Town Police Station conducted an investigation, registered Crime No.880 of 2018, and filed the final report before this Hon'ble Court. Witnesses were examined thereafter. During the conduct of trial by this Hon'ble Court, the petitioner seeks permission for his private counsel to appear along with the Public Prosecutor and assist in the prosecution, hence this petition.

3) Gist of the counter filed by the petitioner;

1) In the petition filed by the petitioner, no reasons whatsoever have been stated as to why it is necessary for a private counsel to appear and assist the Public Prosecutor.

2) It is stated that the Public Prosecutor appearing for the State has been conducting the prosecution diligently without any lapse. No prosecution witness has been left un-examined. Immediately after examination-in-chief of prosecution witnesses, cross-examination by the defence was conducted without delay. The trial progressed smoothly, and all prosecution witnesses were examined and completed by the prosecution side.

3) The petitioner has not alleged that the Assistant Public Prosecutor failed to cooperate, conducted the case improperly, or caused delay.

4) Further, pursuant to directions issued by the Hon'ble Madras High Court, Madurai Bench, to dispose of the case expeditiously, the trial has already been conducted speedily and concluded.

5) It is contended that the petitioner has filed this petition only with the intent to delay the proceedings, and therefore the petition liable to be dismissed.

4. Points for consideration:

Whether this petition is liable to be allowed or not:

1) The arguments of both sides were heard, and the records were perused.

2) This case was registered based on the complaint of P.W.1 (the petitioner), a

final report was filed, and the case was taken on file. All prosecution witnesses were examined in chief and cross-examined on the very same day by the defence. The prosecution evidence was completed on 16.10.2024.

3) At this stage, the petitioner/defacto complainant has filed the present petition seeking permission for a private counsel to assist the Public Prosecutor.

4) However, the petitioner has not stated any reason or necessity explaining why such assistance is required. No allegation has been made that the Public Prosecutor failed to properly conduct the examination of witnesses.

5) Further, though the petitioner was already aware of certain documents at the time of his examination-in-chief, he failed to produce them then. Now, after completion of prosecution evidence, stating that it has become necessary to file additional documents is not acceptable. Moreover if the petitioner wants to produce additional documents on his side, the same has to be filed through the Assistant Public Prosecutor. It is for the prosecution who has the right to file such a petition. The petitioner can only ask for the appointment of a counsel only for assisting the prosecution. He cannot ask for the production of evidence which are omitted during the trial through appointment of private counsel.

6) Moreover, when the Hon'ble Madras High Court, Madurai Bench, has issued directions to dispose of the case within a stipulated time, filing of this petition at a belated stage is not acceptable. Therefore, this Court finds no merit in this petition.

In the result, This petition is dismissed. No costs.

This order is dictated to Steno-typist, typed by her in Computer, corrected and pronounced by me in the open court on this the 27th day of March, 2026.

Judicial Magistrate(FAC),
Theni.

