

**IN THE COURT OF III ADDITIONAL DISTRICT & SESSIONS JUDGE,
DHARAPURAM**

PRESENT :**Thiru.C.M.SARAVANAN.,B.A.,L.L.M, (TN01609)**
III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
DHARAPURAM.

Wednesday, 26th day of November 2025

Cr.MP No.1/2025 in SC No. 56/2021

The State, Represented by

The Inspector of Police, Moolanur Police Station,

in Cr. No.287/2018, Offences : U/s.302 of IPC,

Rep by the Additional Public Prosecutor, Dharapuram

(The III-Additional District Court, Dharapuram)

... Petitioner/ Complainant

/ Versus /

1.Haridas

2.Kavitha

... Respondents/Accused 1 & 2

This petition came up for hearing before me on 19.11.2025 in the presence of Tmt.S.Chitraponds, Advocate for the Respondents/Accused 1 & 2 and Thiru.K.M.Manivannan, Additional Public Prosecutor, representing the state. Upon perusing the petitions and connected records and upon hearing the arguments, this Court delivered the following :

ORDER

1. This application has been filed by the petitioner/complainant seeking permission to obtain a certificate under Section 65 of the Indian Evidence Act from the witness Balusamy, who downloaded the documents related to the CDR and tower

location of the two cell phones in this case and handed them over to the investigating officer, and to present them in court under section 294 Cr.P.C.

2. Case of the petitioner:

The accused charged for the offense under section 302 of IPC. In the trial, the head constable namely Balusamy is examined as PW19. The investigation officer submitted the requisition to the service provider as namely Vodafone and Airtel, and based on the requisition the CDR and tower location particulars had been sent to the District Police office which was downloaded by the said witness from the system available in the District Police office. Those CDR particulars and tower locations are produced as documents at the time of filing of the final report. But the certificate under section 65(b) is not annexed and in order to mark the call details, and tower location, the certificate is to be enclosed. Unless the prosecution permitted to produce the 65(b) certificate along with the documents, the prosecution will be put in to a great loss and hardship and hence the prosecutor prays to allow the application.

3. The gist of the counter is filed by the 1st respondent.

The petition is not maintainable either in law or facts. The alleged occurrence took place in the year 2018, and the final report was filed in the year 2019, and subsequently the case had been committed to the District court for trial. So far 19 witnesses have been examined by the prosecution, and out of 19, 18 witnesses were examined in cross in full. One Mr.Balusamy is examined as PW19. The prosecution wants to mark the Airtel and Vodafone CDR. But the certificate u/s 65(b) of Indian

Evidence Act is not enclosed in the final report. After completion of 7 years from the date of filing of the final report, now the prosecution is not entitled to mark the certificate under section 65(b) of Indian Evidence Act. The prosecution filed this application only to fill up the laguna. The existence of 65(b) certificate is not found in the 161(3) of Cr.P.C statement of PW19. Therefore, the petition is to be dismissed.

4) The points for consideration is, whether the petition is deserved to be allowed or not ?

5) **Heard both sides :**

A careful perusal of the documents and evidence placed before this court, the alleged occurrence took place in the year 2018, and subsequently the Final report was filed by the prosecution in the year 2019. At the time of filing of the final report, the CDR and tower location particulars were produced along with the final report. Whereas the certificate under section 65(b) of Indian Evidence Act is not enclosed. Now the prosecution wants to mark the CDR report and tower location particulars along with the 65(B) certificate as mandate in the Evidence Act. The other side has admitted the application on the ground that since the document is not filed at the time of filing of the final report, there is a laguna in the prosecution case and the prosecution cannot be permitted to fill up the laguna. A careful perusal of the records, admittedly the CDR particulars and tower location particulars are filed by the prosecution along with the final report. Whereas the 65(b) certificate is not

annexed.

6) The Hon'ble Supreme Court of India in, **Sameer Sandhir Vs. Central Bureau of Investigation, 2025 Live law (SC) 627** held that, **“if there is an omission on the part of the prosecution in forwarding the relied upon documents to the learned Magistrate, even after the charge sheet is submitted, the prosecution can be permitted to produce the additional documents which were gathered prior to or subsequent to the investigation”**. Here in the case on hand, admittedly the documents were already produced by the prosecution at the time of filing of the report, whereas the 65(b) certificate is mandate to authenticate that the documents are duly downloaded from the system handled by the witness herein. The PW19 also have deposed his consider that he had downloaded the copy of the CDR as well as tower locations, and hence as rightly pointed out by the prosecution, it is essential piece of evidence to decide the case on hand by observing the ratio of the referred judgment this court inclined to allow the application.

In the result, this petition is allowed. There is no order as to cost.

Dictated by me to the Steno-Typist, transcribed in Short-hand, computerized by her and corrected by me and pronounced by me in the Open Court on this the **26th day of November, 2025.**

III Additional District and Sessions Judge,
Dharapuram.