

**IN THE COURT OF THE PRINCIPAL ASSISTANT SESSIONS JUDGE,
VILLUPURAM**

**Present: A.Tamilselvan. M.L.,
Principal Assistant Sessions Judge, Villupuram.**

Wednesday, the 3rd day of December 2025

Crl. M.P. No 3/2025

in

S.C. No. 106 of 2015

(CNRNo.TNVP02-000579-2015)

D. Jayaprakash Narayanan

... Petitioner/Accused A1

//Vs//.

The Inspector of Police,

Villupuram West Police Station

... Respondent/Complainant

This petition having been taken on file on 18.02.2025 and came up for final hearing in the presence of Tmt.S.Freeda Gnanamani, learned Counsel, on behalf of the Petitioner/Accused A1 and in the Presence of Tr.K.Karthikeyan, learned Additional Public Prosecutor of the State, upon perusing the case records and upon hearing arguments of both sides and having been stood over for consideration till this day, this court delivered the following...

ORDER

This petition is filed by the first accused under Section 309 of the Code of Criminal Procedure, 1973, seeking an adjournment of the trial in the above Sessions Case. The case is presently at the stage of defence evidence. The respondent/Prosecution has filed a counter objection opposing the prayer.

2. Brief facts of the petition averments:-

1. The Petitioner respectfully submits that in the above case he has been arrayed as first accused and his brother Dasarathan has been arrayed as second accused. They are facing charges for offences under Sections 294(h), 332, 307 of IPC.

2. The Petitioner respectfully submits that he is a Civil Engineer. He belongs to the Adi-dravidar Community which is a Scheduled Caste. He is now working as Municipal Engineer in Thirukoilur Municipality.

3. The Petitioner submits that on 24.11.2008 at about 2.00 p.m, his brother Dasarathan, who is the 2nd Accused herein was stopped by One Ramalingam, who later came to be known as a Head Constable of Villupuram Town Police Station and he demanded bribe from him and also threatened the Petitioner's brother that if he fails to pay bribe, he would be implicated in a false case. When the Petitioner's brother informed him about the same to the Petitioner, he rushed to the spot. When the Petitioner enquired with the above-mentioned constable Ramalingam, he pulled the Petitioner's shirt and threatened him and abused him in filthy language. On the very same day, at about 9.00 p.m. one Kuma, Sub-Inspector of the Villupuram East Police Station, the said Ramalingam and 4 other policemen came to the Petitioner's house and took him to the Villupuram East Police Station and was brutally attacked.

4. The Petitioner respectfully submits that he preferred a complaint before the Villupuram West Police Station against above said Ramalingam and other policemen. The Petitioner gave representations to the various authorities, including the Tamil Nadu State Human Rights Commission. After repeated representations of the Petitioner, Crime No. 70 of 2009 was registered before the Villupuram West Police station as against the above said Ramalingam and others who attacked him under section 147, 323, 325, 294 (b) of I.P.C and Section 3 (1)(x) of the SC & ST (Prevention of Atrocities) Act, 1989 on the complaint given by the Petitioner.

5. The Petitioner respectfully submits that the Complaint of the Petitioner before the State Human Rights Commission was taken on file as case No. 11609/2008/C2 and was posted for trial on 17.10.2014. Subsequently the Police

Personnel filed a common counter wherein it was stated that the complaint of the Petitioner in Crime NO. 70 of 2009 of the Respondent Police was referred as Mistake of fact. Only thereafter the Petitioner received summons in this present case which is lodged against the Petitioner and his brother, from the Judicial Magistrate No.1, Villupuram in P.R.C.No. 1 of 2015.

6. The Petitioner respectfully submits that when the complaint of the Petitioner was not progressed, the case against the Petitioner in P.R.C. No.1 of 2015 was preceded further for committal. Therefore, the Petitioner preferred a Criminal Original Petition before the Honble High Court, Chennai in CrI.O.P. No. 5887 of 2015 for directing the Deputy Inspector General of Police, CB-CID to take over the investigation of the case in Crime No. 70 of 2009 of the file of Villupuram West Police Station.

7. The Petitioner respectfully submits that meanwhile the case against the Petitioner was transferred to this lion'ble Court as S.C.No. 106 of 2015 and went in progress. However the Petitioner was served with a memo dated 12.10.2015 from the Hon'ble Judicial Magistrate No.1, Villupuram purporting to be R.C.S notice for the complaint of the Petitioner and the same stood adjourned to 29.01.2016 for filing the objections of the Petitioner. Since the above two cases are case and counter, if the same are tried by different courts, the cases could not be appreciated in proper perspective. Therefore he preferred a Criminal Original Petition before the Hon'ble High Court, Chennai in Cri.O.P. No. 4505 of 2016 for setting aside the R.C.S. Notice and for transfer of investigation.

8. The Petitioner respectfully submits that on 19.07.2017, in CrI.O.P. No. 4505 of 2016, the Hon'ble High Court, Chennai, there was an order of interim stay of S.C.No. 106 of 2015 which is the present case. Thereafter the case has been posted for final hearing along, with CrI.O.P. No. 5887 of 2015 and was in the state of final hearing. Meanwhile the case before the Tamil Nadu State Human rights Commission was disposed on 16.09.2019 with the following directions:

i) The Government of Tamil Nadu shall pay a compensation of Rs. 5,00,000/- (Rupees Five Lakhs only) to the Complainant Thiru. D. Jayaprakash Narayanan, S/o. Damotharan, No.1/3, Plot No.40, Muthuvel Lay-out, Viluppuram, within one month from the date of receipt of a copy of this Recommendation and the Government of Tamil Nadu may recover Rs. 1,00,000/- from the 1st Respondent and Rs. 2,00,000/- each from the Respondents 2 & 3 Respectively. The Complainant against the Respondent 4 to 6 is dismissed.

ii) This Commission is also recommends to initiate disciplinary action against the Respondent 1 to 3 as per the Rules.

iii) This Commission is further recommends to initiate criminal prosecution against the Respondents 1 to 3 for brutal attack and tortured the Complainant.

iv) This Commission is further recommends the Government of Tamil Nadu to give suitable instructions to the Director General of Police, Tamil Nadu for not granting any promotions to the 2nd Respondent since he is a habitual violator of the human rights of the victims.

9. The Petitioner respectfully submits that the Crl. O. P. No. 5887/2015 and Crl. O. P. No. 4505/2016 were dispused on 03.11.2020 giving liberty to the Petitioner to file Protest application against the referred charge sheet before Judicial Magistrate Viluppuram. Meanwhile the referred charge sheet in Crime No. 70/2009 was transferred to the Hon'ble Special Court for trial of SC/ST Act Cases, Viluppuram and the objections filed by the Petition was numbered as Crl. M. P. No. 1957/2022. The same has been posted for orders on 27.12.2024.

10. The Petitioner respectfully submits that the Hon'ble Full Bench of Madras High Court constituting of The Honourable Dr. Justice G. Jayachandran, The Honourable Mr. Justice M. Nirmal Kumar and The Honourable Mr. Justice N. Anand Venkatesh in Crl. O. P. No. 4587/2024 has held that "Where a final report is filed in one case and a closure report in the other case, the Magistrate will follow the procedure in Bhagwant Singh V. Commisioner of Police, (1985) 2 SCC 537. Till a decision in the protest petition is arrived, the inquiry or the trial in the pending case

where the final report has been Lied shall be kept in abeyance. Trial in this session Case will have to be tried along with the Crime No. 70/2009 pending before the Hon'ble Special Court for trial of SC/ST Act Cases, Viluppuram. Since the Protest application which is pending before the Hon'ble Special Court for trial of SC/ST Act Cases, Viluppuram was dismissed on 31.12.2024 erroneously holding that Protest petition was filed after a lapse of two years. The Petitioner wants to prefer Criminal Revision Petition against the above said order. The Petitioner has obtained certified copy of the above order on 13.02.2025 and has taken steps to prefer Criminal Revision Petition against the above said order before the Hon'ble High Court, Madras. This petition is taken out to adjourn the above case to any other date in the interest of Justice following the above said Full Bench Judgment of the Hon'ble High Court, Madras. If the trial in this case is proceeded further, the Petitioner would be greatly prejudiced. It is therefore prayed that this Honble Court may be pleased to adjourn the above case to any other date as this Hon'ble Court deems fit and proper.

3. Brief facts of the Counter objection averments:-

1. It is humbly submitted that the petition filed by the petitioner under Section 309 Cr.P.C., seeking an adjournment "to any date as this Court deems fit" without examining the prosecution witnesses who have appeared before this Hon'ble Court in response to summons, is neither just nor proper and is wholly untenable in law and on facts. The present petition has been filed with a mala fide intention solely to delay the trial proceedings.

2. The petitioner has narrated certain background facts from the year 2008 in a self-serving manner and has deliberately suppressed the real and material facts. The averments relating to the supposed history of the case are unnecessary and irrelevant to the present petition.

3. Admittedly, the case originated in the year 2008 and is now 17 years old, yet it remains at the same stage owing to the petitioner's repeated attempts to delay and dilute the proceedings. There is no stay order in force from any Court as on date. The

petitioner has filed the present petition only to avoid examination of prosecution witnesses who are present before this Court pursuant to witness summons.

4. The petitioner contends that there is a case and a counter case which must be tried together, and that failure to do so would prejudice him. However, the FIR in this case was registered in 2008, whereas the alleged counter-FIR was registered only in 2009. The petitioner has failed to establish that whether both cases arose out of the same incident. Be that as it may, during investigation, the Deputy Superintendent of Police found the alleged counter-case to be false and lodged merely as a counter-blast to the present case, and therefore closed it as a "mistake of fact". The petitioner subsequently exhausted all legal remedies before the Hon'ble High Court of Madras, the Judicial Magistrate, and the Special Judge under the SC/ST (POA) Act, all of which were dismissed. The present plea that he intends to file an appeal against the order dated 31.12.2024 is untenable and unsustainable in law. There is no counter case in existence to be tried along with the present case as claimed by the petitioner, therefore, it is clear that the facts such as falsely projected by the petitioner.

5. Furthermore, the case history of the so-called protest petition pending before the Hon'ble SC/ST (POA) Court, as available on the official e-Courts platform, clearly reveals the conduct of the petitioner. From inception, the matter has been repeatedly posted for arguments, but the petitioner has consistently dragged on the proceedings, failed to advance arguments, and absented himself on several hearings.

6. As of today, the petitioner has not filed any appeal against the dismissal order of the SC/ST Court. Yet, when the trial in the present case commenced, he rushed to file this petition purely with the intention to postpone the examination of witnesses. The mala-fide intention of the petitioner to delay and derail the proceedings is crystal clear.

7. There is absolutely no impediment in conducting the trial or in examining the prosecution witnesses, since no appeal has been filed nor any stay order has been passed by any competent court. The petitioner's plea that he intends to file an appeal in the future is not a valid ground to seek adjournment. Moreover, the petitioner

informed that 'any other date as this Hon'ble court deems fit' is untenable, because who will prefer the appeal how the sessions trial can be posted with imaginary manner after started the trial.

8. Further, in the judgment of the Hon'ble High Court of Madras in T. Balaji & Another v. State rep. by the Inspector of Police, New Washermenpet Police Station, CrI.O.P. No.4587 of 2024 dated 08.08.2024, the Hon'ble Court has elaborately discussed the principles relating to case and counter-case. The Court has held that in cases involving rival versions, it is highly probable that one of the versions must necessarily be false. In the present matter also, the so-called counter case projected by the petitioner has been rejected by all forums, including by the Investigating Officer, as a false and motivated complaint. Hence, the legal position is well-settled and squarely applicable to the present facts.

9. Therefore, it is most humbly prayed that this Hon'ble Court may be pleased to dismiss the petition filed by the petitioner seeking adjournment, and further be pleased to impose heavy costs upon the petitioner for abusing the process of law and delaying the proceedings; and thus render justice.

4. Points for Consideration:-

Whether this petition for adjournment is liable to be allowed or not?

5. On the Point:

5(1) Arguments of the Petitioner's Counsel:-

Learned counsel for the petitioner/accused urged the following:

1. The present case (S.C. No. 106 of 2015) and the counter case in Crime No.70 of 2009 (now before the Special Court for SC/ST Act Cases) arise from the same transaction on 24.11.2008, involving the same set of parties as complainants and accused in both cases.

2. A Full Bench of the Hon'ble Madras High Court in CrI. O.P. No. 4587 of 2024 & etc., batch, has categorically held that where a final report is filed in one case,

and a closure report in the other, the trial in the case where the final report is filed shall be kept in abeyance till a decision is rendered on the protest petition filed against the closure report. This is to ensure both versions are appreciated together and to avoid prejudice.

3. Although the protest petition (Crl. M.P. No. 1957 of 2022) was dismissed by the learned Special Judge on 31.12.2024, the petitioner has taken steps to challenge the same. The certified copy of the dismissal order was obtained on 13.02.2025, and the petitioner intends to file a Criminal Revision Petition before the Hon'ble High Court of Madras. The principle of the Full Bench judgment, requiring the abeyance of one trial pending the decision of the other, should apply with equal force at the appellate/revisional stage.

4. If the trial in the present case is allowed to proceed and concludes before the revisional challenge to the dismissal of the protest petition is decided, it would cause irreparable prejudice to the petitioner. The defence in the present case is intrinsically linked to the facts of the counter case. Trying them separately would defeat the ends of justice.

5. The adjournment sought is only to await the outcome of the proposed revisional proceedings, to ensure the trials are coordinated as mandated by the Full Bench.

5(2) Arguments of the Respondent's Counsel (State):

Per contra, Learned Additional Public Prosecutor for the State countered as under:

1. The petition is a blatant abuse of process and a dilatory tactic. The present case pertains to an incident of 2008 and is over 16 years old. The accused has successfully delayed the trial at every stage.

2. The so-called "counter case" in Crime No. 70 of 2009 was thoroughly investigated and found to be a false and motivated complaint, registered as a counter-blast. It was closed as a "mistake of fact" as early as 2009. All subsequent challenges

by the petitioner, including petitions before the Hon'ble High Court (Crl.O.P. Nos. 5887 of 2015 & 4505 of 2016) have been disposed of, granting him only the liberty to file a protest petition.

3. The petitioner availed that liberty and filed a protest petition (Crl.M.P. No. 1957 of 2022). After protracted proceedings, where the petitioner himself delayed arguments, the learned Special Judge dismissed the protest petition on merits on 31.12.2024. As of today, there is no protest petition pending.

4. The petitioner's claim that he "intends" to file a Criminal Revision is wholly illusory and cannot be a ground to stay a long-pending trial. No revision petition has been filed till date, and no stay order from any higher court is in existence. The trial must proceed in the absence of any legal impediment.

5. The Full Bench judgment relied upon by the petitioner applies only when a protest petition is pending consideration. It does not apply once the protest petition has been finally dismissed. The judgment cannot be invoked to indefinitely adjourn a trial based on a mere intention to file an appeal.

6. The witnesses for the prosecution are present in court. Further adjournment would cause them great hardship and would be a travesty of justice. The petition is devoid of merit and is liable to be dismissed with costs.

6. This court is carefully considered the submission of both sides and the available case records.

7. Court's Analysis and Findings:-

Having considered the rival submissions, the averments in the petition and counter, and the record of the case, this Court finds as follows:

1. The present Sessions Case is of the year 2015, relating to an FIR of 2008. It is at the stage of defence evidence. The protest petition filed by the petitioner against the closure report in the counter case (Cr. No. 70/2009) was dismissed by the

competent Special Court on 31.12.2024. The petitioner states he obtained a certified copy on 13.02.2025 and intends to file a Criminal Revision.

2. The principle laid down by the Hon'ble Full Bench of the Madras High Court is salutary and aims to prevent conflicting findings in case and counter-case. However, the operative direction is that the trial shall be kept in abeyance "till a decision in the protest petition is arrived". The key phrase is "till a decision is arrived". In the present scenario, a decision has been arrived at; the protest petition stands dismissed. The legal position canvassed by the petitioner, therefore, does not apply ipso facto to the post-dismissal scenario.

3. The petitioner has not placed on record any proof of having filed a Criminal Revision Petition before the Hon'ble High Court. There is no number, no diary number, and crucially, no order of stay or notice from the High Court. A mere statement of intention to file a revision in the future is not a sufficient legal ground to indefinitely adjourn a trial that has been pending for over a decade and a half. The law does not permit a party to unilaterally stay proceedings based on a contemplated challenge.

4. This case is a stark example of delayed justice. The counter case was closed in 2009. The petitioner's various petitions before the High Court were disposed of in 2020. The protest petition took two years from filing to dismissal. Allowing the present trial to be adjourned on the basis of a yet-to-be-filed revision would perpetuate an inordinate delay, causing serious prejudice to the prosecution and the interest of society in the expeditious conclusion of trials.

5. While the Court is mindful of the potential need for a consolidated trial if the revisional court were to revive the protest petition, the current legal reality is that there is no pending proceeding in the counter case. To halt the present trial would be to prioritise a hypothetical future event over the concrete reality of a delayed trial. If the petitioner is serious about his revisional challenge, he must pursue it with alacrity and seek appropriate interim orders from the Higher Court.

ORDER:

In light of the foregoing discussions, this Court is of the considered view that no sufficient cause has been made out to grant the adjournment prayed for. The petition filed under Section 309 Cr.P.C. is devoid of merit and is accordingly dismissed.

The trial in S.C. No. 106 of 2015 shall proceed from the stage of defence evidence on the next date of hearing. The petitioner/accused is at liberty to approach the Hon'ble High Court for appropriate reliefs. If any stay or specific direction is issued by the Higher Court, the petitioner may immediately bring it to the notice of this Court.

List the case for Examining Defence Witnesses on 10.12.2025.

Dictated to the Steno-Typist directly, typed in a computer by her, corrected and pronounced in Open Court, on this the 3rd day of December 2025.

Principal Assistant Sessions Judge,
Villupuram.

Enclosure:

List of petitioners' side and Respondent's side witnesses and Exhibits:-

(Nil)