

**IN THE COURT OF THE I ADDITIONAL DISTRICT AND SESSIONS
JUDGE, VELLORE, VELLORE DISTRICT.**

**PRESENT: Tmt. G.Santhi,
I Additional District and Sessions Judge,
Vellore.**

Monday, the 23rd day of March 2026

CrI.M.P.No.698/2026 IN SC.No.138/2017

K.Murali S/o.C.Kannan ... Petitioner / Accused

Vs.

State represented by CBCID,
Crime Branch Vellore. ... Respondent/Complainant.

This petition coming before me for final hearing in the presence of Thiru.V.Balu, Learned Counsel for the Petitioner/Accused, Thiru.S.Sivaprakasam, the Additional Public Prosecutor for the Respondent/Complainant and after hearing the arguments of both sides, this Court delivered the following:-

ORDER

This petition has been filed seeking to reopen the defence witness at the stage of arguments.

2. The averments made in the Petition in brief are as follows:

i. The petitioner submits that the said case is posted for argument. But in the said case the petitioner has to produce some documents to prove that he has been in special team appointed by DSP Ganesan of Ambur who was directed

by the SP, Vellore in two cases of crime nos.204/2015 and 208/2015 regarding redwood scandal. The case diary of the said two cases to be produced before this Hon'ble court for perusal. It would ensrine the details of the duty of the A5 and A6. In the above said case the said A5 was alleged that he has been in Pallikonda Police station involving in this offence of custodial death during the period of 15.06.2015 to 18.06.2015. It is totally false. In the said periods the A5 has been in special team to search for one accused Balaji of the said crime no.206/2015 and another crime no.208/2015 of Ambur PS. Further stated that in the above said crime no.208/2015, the case diary is under the custody of S.I. of police, CBCID of Vellore whereas if the SP, Vellore directs the CBCID, Vellore the case diary may be produced before this Court. Hence filed this application to reopen the stage of defence witness and prays to allow this application.

3. The averments made in the Counter filed by the Prosecution, in brief, are as follows:

i. The petitions are not maintainable and have been filed at a highly belated stage after completion of the entire trial, including closure of prosecution evidence, examination under Section 313 Cr.P.C., defence evidence, and filing of written arguments.

ii. It is submitted that the petitioner/A5 had sufficient opportunity during the defence stage to produce documents and examine witnesses but failed to do so. The present petitions seeking reopening of defence and production of case

diary files are only an afterthought to fill up lacuna and delay the proceedings, which is impermissible in law as held in *State of Haryana vs. Ram Mehar, Rajaram Prasad Yadav vs. State of Bihar, and Natasha Singh vs. CBI*.

iii. It is further submitted that the documents sought are not part of prosecution records and cannot be compelled to be produced. The petitions lack merit, are not essential for a just decision, and if allowed, would cause prejudice to the prosecution and delay disposal of this custodial death case. Hence, the petition is liable to be dismissed as an abuse of process of Court.

4. Both side heard. Records perused.

5. Point for Determination:

Whether the petition to reopen the defence and call for case diary records is maintainable and necessary for deciding the case?

6. The Prosecution case in brief is that the deceased Shameel Basha, son of Shajahan, was allegedly in a close relationship with one Pavithra, wife of Palani. Due to a family dispute, the said Pavithra went missing from her house on 24.05.2015. Based on the complaint given by her husband Palani, a case in Crime No.140 of 2015 for “Woman Missing” was registered on 26.05.2015 at Pallikonda Police Station by the Sub-Inspector of Police, Ravi. On 27.05.2015, Pavithra’s mother received a phone call from an unknown person stating that Pavithra had come and would be sent back home by train. As no effective steps

were taken by the police to trace her, Palani filed a Habeas Corpus Petition before the Hon'ble High Court, Madras.

During the course of enquiry, the mobile numbers from which the call was made were traced to the deceased Shameel Basha. He was produced before the police on 16.06.2015 for enquiry. He stated that while he was working at Erode, Pavithra came to meet him on 26.05.2015, stayed in a rented house for one day, and thereafter he sent her back by train on 27.05.2015 and informed the same to her mother. However, suspecting his involvement, the police did not accept his explanation and kept him in custody at Pallikonda Police Station on the night of 16.06.2015.

It is the further case of the prosecution that, on 17.06.2015 and 18.06.2015, the Inspector of Police, Martin Premraj, along with other police personnel, took Shameel Basha to the Pallikonda Police Quarters and kept him in illegal custody. During such custody, he was subjected to severe physical torture by using third-degree methods, including beating with a cane and tying his hands behind his back with rope and inflicting pain through a pulley method, in order to extract information regarding the whereabouts of Pavithra.

On 19.06.2015, Shameel Basha was brought back to the police station and was made to execute an "Aajar Muchalika" as if he was released in good health condition. However, due to the injuries sustained, he was unable to walk

properly or lift his hands, and hence affixed his left thumb impression. Thereafter, his father-in-law took him to the Government Hospital, Ambur, where he was admitted as an inpatient with visible injuries. Subsequently, he was referred to the Government Medical College Hospital, Vellore, and later to the Rajiv Gandhi Government General Hospital, Chennai, for further treatment for serious injuries including brachial plexus damage.

Despite treatment, Shameel Basha succumbed to his injuries on 26.06.2015 at the Rajiv Gandhi Government General Hospital, Chennai. Following his death, a case in Crime No.158 of 2015 under Section 176 Cr.P.C. was registered on 27.06.2015. A judicial inquiry was ordered by the Chief Judicial Magistrate, Vellore, and postmortem was conducted by a team of doctors. The prosecution alleges that the death of Shameel Basha was the direct result of custodial torture inflicted by the police officials during his illegal detention.

Point :

7. This Court heard the submissions made on both sides and perused the records. The petition has been filed to reopen the defence witness stage and to call for the case diary records in Crime Nos.204/2015 and 208/2015, on the ground that those records are necessary to show that A5 was engaged in special team duty during the relevant period and was not present at Pallikonda Police Station as alleged by the prosecution.

8. It is true that the case is now posted for arguments. It is also true that ordinarily, after completion of prosecution evidence, examination under Section 313 Cr.P.C., defence evidence and filing of written arguments, the case should proceed for final disposal without reopening the trial lightly. At the same time, the power of the Court to reopen or summon records cannot be refused merely because the case has reached the argument stage, if the documents sought appear necessary for a just decision of the case.

9. In the present case, the specific defence of A5 is that during the relevant period he was not involved in the alleged occurrence, but was on special team duty in connection with other cases. For that purpose, he seeks production of the case diary records, which according to him would show the nature of his duty and his movements during the relevant period. Therefore, the documents sought are not unrelated records, but are claimed to have a direct bearing on the defence set up by A5.

10. The prosecution opposed the petition mainly on the ground of delay and contended that the petition is only intended to fill up lacuna and prolong the proceedings. This objection has been carefully considered. Mere belated filing by itself cannot be the sole ground to reject the prayer, if the records sought are official records and if their production may assist the Court in arriving at the

truth. The duty of the Court is to ensure a fair opportunity to both sides and to render a just decision on the basis of all necessary materials.

11. It is also relevant to note that the records sought are case diary files said to be in official custody and not in the personal possession of the accused. Therefore, unless this Court issues direction, the petitioner may not be in a position to secure those records on his own. In such circumstances, denial of the opportunity may cause prejudice to the defence.

12. This Court is conscious of the fact that the prosecution has alleged serious offences relating to illegal custody, torture and custodial death of Shameel Basha. Precisely because of the seriousness of the allegations, the Court must ensure that every relevant defence material, if lawfully summonable, is made available before final adjudication, so that the decision is rendered after full and fair consideration of all necessary records.

13. At this stage, this Court is not expressing any opinion on the truth, admissibility or evidentiary value of the proposed records. That question will be decided at the time of final appreciation. For the present, this Court is satisfied that the records sought may have relevance to the defence case and are necessary for proper adjudication.

14. In view of the above, this Court decided that the petition deserves to be allowed, subject to calling only the relevant records required for the purpose stated by the petitioner.

As a result, this petition is allowed.

Dictated to the Steno-Typist directly and typed by her in computer, corrected and pronounced by me in open court, on this the 23rd day of March 2026.

I Additional District and Sessions Judge,
Vellore.