

**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.699/2026 IN SC.No.138/2017

Suresh S/o.Rajasekar ... Petitioner / Accused A6

Vs.

State represented by CBCID,
Crime Branch Vellore.

... Respondent/Complainant.

Petition: Reopen Petition

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 enquire the details of the duty of the A5 and A6. In the above said case the said A6 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 A6 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 in brief are as follows:

The petition is not maintainable at this stage of the proceedings. It is submitted that the case is now posted for defence side arguments, and the prosecution has already completed its evidence by examining all witnesses, marking all relevant documents, and filing written arguments on 06.12.2015 before this Hon'ble Court. It is further submitted that the accused were examined under Section 313 Cr.P.C., and sufficient opportunity was granted to the defence to adduce defence evidence, which has also been completed. At this

highly belated stage, the filing of the present petitions to reopen the defence and summon documents is legally impermissible and amounts to an abuse of the process of Court.

It is submitted that the attempt of the petitioner/A6 is only to fill up lacuna in the defence case, which is not permissible in law. The petitioner/A6 had full opportunity during trial to examine himself as a defence witness and to produce any official records in support of his defence. Having failed to do so, he cannot now seek to reopen the case to fill such lacuna. In this regard, it is submitted that the Hon'ble Supreme Court in *Natasha Singh v. CBI* has categorically held that Section 311 Cr.P.C. cannot be invoked to fill up lacuna in the prosecution or defence case. Similarly, in *State of Haryana v. Ram Mehar*, it has been held that recall or reopening cannot be permitted if the object is to delay the trial or to fill up lacuna. Further, in *Rajaram Prasad Yadav v. State of Bihar*, the Hon'ble Supreme Court has held that the power to reopen must be exercised sparingly and only when it is essential for a just decision, and not to enable parties to improve their case.

In the present case, the petitioner/A6 is attempting to improve his defence after the completion of trial, which is impermissible in law. It is further submitted that the accused No.5 and petitioner/A6 had already availed sufficient opportunity during the defence stage by filing petitions in CMP No.3299/2025 and CMP No.3300/2025 dated 26.09.2025, which were allowed on 09.10.2025,

and summons were issued accordingly. Thereafter, sufficient opportunity was granted, and the defence evidence on behalf of petitioner/A6 was closed on 17.11.2025.

It is submitted that the documents now sought to be summoned by the petitioner/A6, namely the CD file and records in Crime No.206/2015 of Ambur Taluk Police Station, were never seized during the investigation of the present case, were never relied upon by the prosecution, and were never marked as prosecution exhibits. Therefore, the prosecution cannot be compelled to produce documents which are not part of its records. It is further submitted that the petitioner/A6 is now attempting to create an artificial defence that he was engaged in special duty between 15.06.2015 and 18.06.2015, which is clearly an afterthought raised only after the completion of trial, closure of defence evidence, and filing of prosecution written arguments.

Such an attempt is evidently intended to delay the proceedings and obstruct the course of justice. If these petitions are allowed, it would result in reopening the entire trial, cause serious prejudice to the prosecution, and further delay the disposal of this custodial death case, which has been pending since the year 2015. It is submitted that if the petitioner/A6 was genuinely on special duty, he ought to have produced the relevant documents during the defence stage itself. Having remained silent throughout the trial, the present attempt to reopen

the case after the filing of written arguments is clearly an afterthought and an abuse of the process of Court.

Hence, it is submitted that the present petitions, having been filed at a highly belated stage with the intention to fill lacuna, delay the judgment, and not being essential for a just decision, are liable to be dismissed.

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 both sides and examined the records. The petition is filed to reopen the defence stage and to call for case diary records to show that A6 was on special team duty during the relevant period and not present at the place of occurrence.

8. The main objection of the prosecution is that the case is already at the argument stage and the entire trial is completed. It is true that normally, after

completion of evidence and arguments stage, reopening should not be allowed easily.

9. However, the Court has the power to reopen the case if it is necessary for a fair decision. The important point is not the delay, but whether the documents are necessary to decide the case properly.

10. In this case, A6 has taken a specific defence that during the relevant period he was engaged in special team duty in other cases and not involved in the alleged occurrence. To prove this, he is asking for case diary records. These records may show his duty and movements. So, the documents appear relevant to his defence.

11. The prosecution argued that the petition is filed late and only to fill gaps in the defence. This Court has considered the same. But if the documents may help the Court to find the truth, the petition cannot be rejected only on the ground of delay.

12. It is also important that the documents sought are official records and not in the possession of the accused. Without Court direction, the accused cannot produce them. Therefore, denying the request may affect his right to defend properly.

13. The judgment relied upon by the learned Additional Public Prosecutor in *Rajaram Prasad Yadav Vs. State of Bihar & Anr*, on 04.07.2013 factual

points and circumstances are differs, and hence, the same is not applicable to the present case.

14. Though the prosecution contends that reopening will delay the case, this Court is of the view that calling for limited records will not seriously affect the prosecution, and the truth can be better understood with such records.

15. This Court is not deciding now whether the documents are true or whether they will help the accused or not. That will be decided at the final stage after considering all evidence.

16. Considering all the above, this Court finds that the documents sought may be necessary for proper adjudication of the case. Hence, this Court decided that the petition deserves to be allowed.

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.