

**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 23<sup>rd</sup> day of March 2026**

**Crl.M.P.No.700/2026 IN SC.No.138/2017**

Suresh S/o.Rajasekar

... Petitioner / Accused

**Vs.**

State represented by CBCID,  
Crime Branch Vellore.

... Respondent/Complainant.

**Petition:** Petition to depose his witness

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 permission to examine the petitioner as a defence witness and to pass appropriate orders.

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

The petitioner submits that the case is now posted for arguments and seeks reopening of the defence evidence to produce certain documents.

According to him, he was part of a special team constituted by the DSP, Ambur, under the directions of the Superintendent of Police, Vellore, in connection with Crime Nos.204/2015 and 208/2015. He contends that the case diaries of the said crimes would establish that he was on special duty during the relevant period and not present at Pallikonda Police Station between 15.06.2015 to 18.06.2015, as alleged by the prosecution.

It is further submitted that during the said period, he was engaged in tracing accused persons in Crime Nos.206/2015 and 208/2015 of Ambur Police Station, and therefore his implication in the present case is false. The petitioner contends that production of the said case diaries is necessary to substantiate his defence and seeks permission to reopen the defence evidence for that purpose.

At this juncture, the petitioner also seeks permission to examine himself as a defence witness in order to controvert the prosecution case, which he claims to be false. Hence, he prays to permit him to adduce such evidence.

**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 06.12.2025 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, permit the petitioner to examine himself as a defence witness, and call for case diary records is maintainable and necessary for a just decision of 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 perused the records. The petitioner seeks to reopen the defence, examine himself as a defence witness, and call for case diary records to prove that he was on special team duty during the relevant period and not present at the place of occurrence.

8. It is true that the case is now at the stage of arguments and the trial has already been completed. Normally, reopening of defence at this stage should not be allowed lightly.

9. However, the Court has power to permit reopening if it is necessary for a fair and just decision. The main consideration is whether the evidence sought is relevant to the defence.

10. In this case, the petitioner has taken a specific defence that he was on official duty in a special team during the relevant period. To support this, he seeks to produce case diary records and also to examine himself. These may help in explaining his defence.

11. The objection of the prosecution is that the petition is filed late and intended to fill lacuna. Though there is delay, it cannot be the only reason to reject the petition if the evidence is important. The documents sought are official records and not in the possession of the petitioner. Without Court

permission, he cannot produce them.

12. Allowing the petitioner to examine himself as a defence witness will also give him an opportunity to explain his case directly. This Court is not deciding the truth or value of the proposed evidence now. That will be considered at the final stage.

13. Considering all these aspects, this Court finds that the petition is necessary for proper adjudication of the case. Hence, this Court decided to allow this petition.

***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 23<sup>rd</sup> day of March 2026.

I Additional District and Sessions Judge,  
Vellore.