

**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

Cr1.M.P.No.703/2026 IN SC.No.138/2017

K.Murali S/o. C.Kannan ... Petitioner / Accused No.5

Vs.

State represented by CBCID,
Crime Branch Vellore.

... Respondent/Complainant.

Petition: Petition U/s.91 Cr.P.C.

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

The petitioner has filed this application seeking a direction to call for the case diary in Crime No.206/2015 from the Superintendent of Police, Vellore.

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 15.06.2025 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, Ambur Taluk PS where as if the SP, Thirupthur directs the Ambur Taluk police station the case diary may be produced before this court. Hence filed this application to send for the case diary of crime no.208/2015 to SP, Vellore 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 filed under Section 91 Cr.P.C. seeking a direction to call for the case diary in Crime No.206/2015 from the Superintendent of Police, Vellore, at the stage of arguments, 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 the submissions made on both sides and perused the records. The present petition has been filed under Section 91 Cr.P.C. seeking a direction to call for the case diary in Crime No.206/2015 from the Superintendent of Police, Vellore, to substantiate the defence of the petitioner.

8. The objection of the prosecution is that the petition has been filed at a highly belated stage, after completion of the entire trial and at the stage of arguments. It is true that ordinarily such petitions should be filed during the trial stage.

9. However, the power under Section 91 Cr.P.C. can be exercised at any stage of the proceedings if the Court finds that the documents sought are necessary for a just decision of the case. Therefore, mere delay cannot be the sole ground to reject the petition.

10. In the present case, the defence of the petitioner/A5 is that he was not present at Pallikonda Police Station during the relevant period, but was engaged in Special Team duty in connection with other crimes. To substantiate this defence, he seeks production of the case diary in Crime

No.206/2015, which may reveal his duty and movements during that period.

11. The documents sought are official records and are not in the custody of the petitioner. Hence, without an order of this Court, the petitioner cannot secure the same. Denial of such opportunity may cause prejudice to the defence.

12. Though the prosecution contends that the petition is an attempt to fill up lacuna, this Court is of the view that if the documents are relevant for deciding the case, they cannot be rejected solely on that ground. The primary duty of the Court is to arrive at the truth and ensure a fair trial.

13. Further, calling for the case diary, as sought, would not cause serious prejudice to the prosecution, as the same is only for limited purpose and the prosecution will have opportunity to meet the same.

14. This Court is not expressing any opinion on the evidentiary value or admissibility of the documents at this stage. The same shall be considered at the time of final judgment.

15. Considering the nature of the defence put forth and the relevance of the documents sought, this Court is of the view that the case diary in Crime No.206/2015 relevant for the period from 15.06.2015 to 18.06.2015 may be necessary for a just and proper adjudication of the case. Hence, this Court finds that the petition deserves to be allowed.

As a result, this petition is allowed. The concerned authority is directed to produce the case diary in Crime No.206/2015, relevant to the period from 15.06.2015 to 18.06.2015.

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.