



Crl.OP(MD)Nos.1362 of 2026 & 21832 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.02.2026

PRONOUNCED ON : 01.06.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).Nos.1362 of 2026 and 21832 of 2025

and

Crl.M.P.(MD)No.18729 of 2025

Crl.O.P.(MD).No.1362 of 2026

B.Ramesh @ Kaviya Ramesh

... Petitioner/Accused

Vs.

The State of Tamilnadu,
Rep by. the Deputy Superintendent of Police,
through the Inspector of Police,
Karur Town Police Station,
Karur District.

.... Respondent / Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the learned District and Sessions Judge, Karur, to number the petition filed under section 217 of Cr.P.C in S.C.No.17 of 2021 and dispose the same within the time frame stipulated by this court.

For Petitioner : Mr.K.Vinoharan

For Respondent : Mr.M.Sakthi Kumar,
Government Advocate (Crl. side)



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Crl.O.P.(MD).No.21832 of 2025

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B.Ramesh @ Kaviya Ramesh

... Petitioner/Accused

Vs.

1. The State of Tamilnadu,
Rep by. the Deputy Superintendent of Police,
through the Inspector of Police,
Karur Town Police Station,
Karur District.

2. Sashimitha Respondent / Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to pass an order for to withdraw the case in SC No.17 of 2021 pending before the learned Principal District Judge, Karur District to any other equal jurisdictional Court.

For Petitioner : Mr.T.Lajapathi Roy,
Senior counsel,
For Roy and Roy Associates

For R-1 : Mr.S.Ravi,
Additional Public Prosecutor

COMMON ORDER

These Criminal Original Petitions, though couched differently in their prayers, arise out of a common factual matrix and stem from the same sessions case in S.C.No.17 of 2021 pending on the file of the learned Principal District and Sessions Judge, Karur. Since the



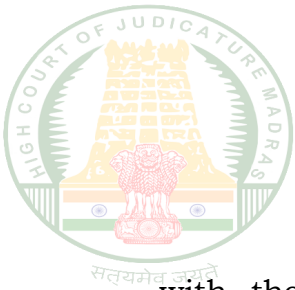
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factual background, legal controversy and procedural grievances substantially overlap, both petitions are taken up together and are being disposed of by this common order.

2. Crl.O.P.(MD)No.21832 of 2025 has been filed seeking transfer of S.C.No.17 of 2021 from the file of the learned Principal District and Sessions Judge, Karur to another competent Court on the ground of alleged denial of fair trial and reasonable apprehension of bias.

3. Crl.O.P.(MD)No.1362 of 2026 has been filed seeking a direction to the learned Principal District and Sessions Judge, Karur to receive, number and dispose of the petition purportedly filed by the petitioner under Section 217 Cr.P.C. seeking recall of witnesses consequent upon alteration of charges.

4. The issues raised in these petitions transcend a mere procedural dispute. They touch upon the delicate balance between expeditious criminal adjudication and the inviolable constitutional guarantee of a fair trial. Criminal law does not merely concern itself



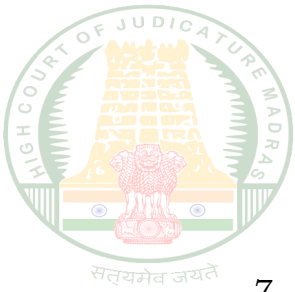
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with the punishment of offenders; it is equally concerned with ensuring that the process through which guilt is determined remains fair, transparent and legally sustainable.

Case of the prosecution:

5. The prosecution case, in brief, is that there existed prior enmity between the deceased Krishnamoorthy and certain accused persons arising out of an earlier occurrence dated 17.09.2020, wherein one Prem Kumar allegedly sustained injuries during an altercation. According to the prosecution, following the said incident, the accused persons allegedly conspired to eliminate the deceased as an act of retaliation.

6. The prosecution further alleges that on 18.09.2020 at about 9.00 a.m., while the deceased was present in a tender coconut shop run by the *de facto* complainant, accused Nos.1 and 2 allegedly attacked and murdered him. It is alleged that accused Nos.3 and 4 facilitated the escape of the principal assailants and that the present petitioner/A-5, along with A-6, watched the movements of the deceased immediately prior to the occurrence.



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7. The prosecution further alleges that after the occurrence, the petitioner was contacted by another accused and arrangements were made to facilitate escape of the principal offenders. Initially, FIR in Crime No.1031 of 2020 was registered only against accused No.1 and one Ajith Kumar for the offence under Section 302 IPC. Subsequently, after further investigation, additional accused persons were implicated and offences under Sections 302 read with 34 IPC, 120B IPC, 506(ii) IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015 came to be incorporated. Ultimately, final reports were filed implicating several accused persons including the present petitioner.

8. The petitioner specifically came to be implicated on the allegation that:(i) he monitored the movements of the deceased along with A-6;(ii) there were telephonic contacts between the petitioner and other accused immediately before and after the occurrence; and (iii) he facilitated post-occurrence escape arrangements.

9. The sessions case was taken on file in S.C.No.17 of 2021 and trial commenced. According to the parties, examination of



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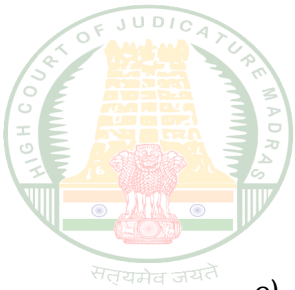
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prosecution witnesses substantially concluded and the matter had progressed to an advanced stage. However, on 18.07.2025, the learned trial Judge altered the charges and introduced charges under Sections 302 read with 34 IPC and 302 read with 120B IPC as against the petitioner/A-5. It is this alteration of charges and the subsequent refusal to entertain the petitioner's plea for recalling witnesses under Section 217 Cr.P.C. that has led to the filing of the present petitions.

Grounds in Crl.O.P.(MD)No.21832 of 2025:

10. The petitioner contends that:

- a) the learned trial Judge altered serious charges without proper opportunity to the accused;
- b) applications seeking recall of witnesses were not entertained;
- c) the conduct of the learned trial Judge created a reasonable apprehension of bias;
- d) the trial Judge allegedly made observations in open Court indicating intention to convict the accused;



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e) the defence was denied adequate opportunity to establish falsity of prosecution witnesses; and

f) continuance of trial before the same Presiding Officer would seriously prejudice the accused.

Grounds in Crl.O.P.(MD)No.1362 of 2026:

11. The petitioner contends that:

a) after completion of evidence, new charges under Sections 302 read with 34 IPC and 302 read with 120B IPC were introduced;

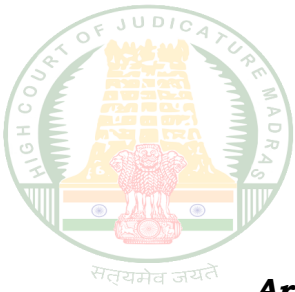
b) Section 217 Cr.P.C. confers a statutory right to recall witnesses consequent upon alteration of charges;

c) the learned trial Judge refused even to receive and number the petition filed under Section 217 Cr.P.C.;

d) the refusal deprived the petitioner of fair opportunity to defend himself;

e) the trial Judge displayed undue enthusiasm in discrediting defence evidence;

f) the cumulative circumstances demonstrate denial of fair trial.



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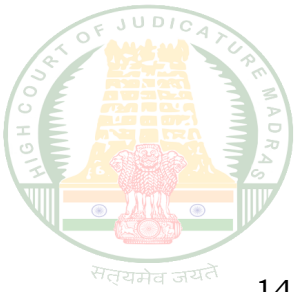
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Arguments on either side:

12. The learned Senior Counsel appearing for the petitioners elaborately contended that the petitioner was originally implicated only on limited allegations relating to harbouring and post-occurrence assistance and significantly no substantive charge under Section 302 IPC had initially been framed against him. It was argued that the subsequent alteration of charges introducing Sections 302 read with 34 IPC and 302 read with 120B IPC radically transformed the nature of accusations against the petitioner.

13. According to the petitioners, once such grave charges were introduced, Section 217 Cr.P.C. automatically conferred a substantive statutory right upon the accused to recall prosecution witnesses and further cross-examine them with reference to the altered charges. The learned counsel relied heavily upon Section 217 Cr.P.C. and the judgment of the Hon'ble Supreme Court in ***Madhusudan v. State of M.P.***¹ to contend that alteration of charges necessarily requires meaningful opportunity to recall witnesses.

¹ Crl.A.No.2509 of 2010

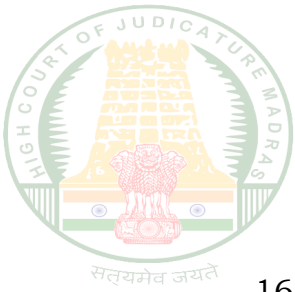


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14. It was further argued that the earlier cross-examination conducted by the defence was tailored only to the original accusations and not to the subsequently introduced allegations under Section 302 IPC. According to the petitioners, denial of opportunity to recall witnesses after introducing graver charges causes manifest prejudice and renders the trial fundamentally unfair.

15. It was further argued that the learned trial Judge not only refused to entertain the Section 217 petition but also displayed undue hostility towards the defence by returning applications without numbering them. Serious allegations were also levelled regarding judicial conduct, including assertions that the learned Judge made comments suggestive of prejudgment and displayed prosecutorial enthusiasm. The learned counsel submitted that justice must not only be done but must also appear to have been done and therefore continuance of trial before the same Presiding Officer would irreparably prejudice the defence.



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16. The learned counsel therefore sought:

- transfer of trial in S.C.No.17 of 2021; and
- a direction to entertain and decide the Section 217 Cr.P.C. petition.

17. Per contra, the learned Additional Public Prosecutor opposed both petitions. The learned Additional Public Prosecutor submitted that the records clearly reflected that altered charges were explained to the accused and that the accused denied the same.

18. It was further argued that the proceedings disclosed that parties were permitted to recall witnesses if they desired. According to the prosecution, the accused themselves made endorsements stating that they had no defence witnesses and thereafter sought to reopen proceedings only with the intention of delaying conclusion of trial.

19. The learned Additional Public Prosecutor submitted that more than forty witnesses had already been examined and permitting wholesale recall at such an advanced stage would seriously prejudice



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expeditious disposal. It was contended that no legally sustainable material existed warranting transfer of trial and that vague allegations against the Presiding Officer cannot form the basis for transfer. The learned Additional Public Prosecutor therefore sought dismissal of both petitions.

20. Heard the learned counsels on either side and carefully perused the materials available on record.

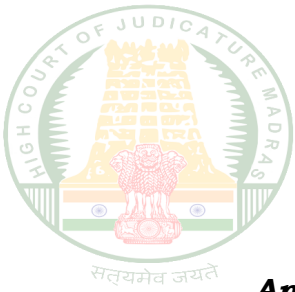
Points for consideration:

21. In the light of the rival submissions, the following points arise for consideration:

i. Whether alteration of charges under Sections 302 read with 34 IPC and 302 read with 120B IPC entitled the petitioner to invoke Section 217 Cr.P.C.?

ii. Whether refusal to entertain the petitioner's application under Section 217 Cr.P.C. amounts to denial of fair opportunity?

iii. Whether circumstances exist warranting transfer of trial from the learned Principal District and Sessions Judge, Karur?



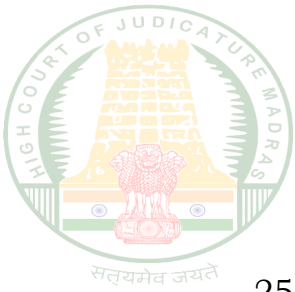
Analysis:

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22. Section 217 Cr.P.C. is not a mere procedural formality. It embodies a substantive safeguard intended to preserve fairness when the foundation of criminal accusation undergoes alteration during trial.

23. Whenever charges are altered or added after commencement of trial, the law mandates that both prosecution and defence must be afforded opportunity to:(i)recall or re-summon witnesses already examined; and (ii) examine further witnesses with reference to the altered charges. The statutory language employed in Section 217 Cr.P.C. is mandatory in character.

24. The legislative object behind the provision is self-evident. Cross-examination strategy in criminal trials is invariably shaped by the precise nature of accusations then existing against the accused. When the complexion of accusation changes substantially, fairness requires corresponding opportunity to revisit evidence already recorded.



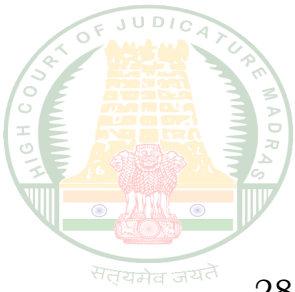
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25. In the present case, the petitioner was initially facing accusations largely relating to facilitation and post-occurrence conduct. However, by alteration dated 18.07.2025, substantive charges under Sections 302 read with 34 IPC and 302 read with 120B IPC came to be introduced against him.

26. Such alteration undoubtedly enlarged the prosecutorial burden and simultaneously expanded the scope of defence available to the accused. Consequently, the petitioner's entitlement to invoke Section 217 Cr.P.C. cannot be brushed aside lightly.

27. At the same time, this Court cannot accept the broad proposition that alteration of charges automatically necessitates *de novo* trial or wholesale recall of all witnesses. Section 217 Cr.P.C. itself permits the Court to refuse recall if the request is intended merely for vexation, delay or defeating the ends of justice. Therefore, the trial Court retains judicial discretion to regulate the scope of recall.



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28. However, such discretion must be exercised judicially and not mechanically. Most importantly, the application seeking recall must first be received, numbered and adjudicated on merits. Refusal even to entertain such petition would strike at the very root of procedural fairness.

29. In the present case, materials placed before this Court *prima facie* indicate that the petitioner attempted to invoke Section 217 Cr.P.C. seeking recall of PW-4 and PW-41. The grievance of the petitioner is not merely that the petition was dismissed on merits, but that the petition itself was not received and numbered. Criminal Courts exercising sessions jurisdiction are expected to maintain procedural transparency.

30. Once a statutory application is presented, the proper course is either:(i)to receive and number it and thereafter dismiss it on merits; or (ii) return it with legally sustainable office objections.

31. Informal refusal across the Bar, if true, cannot be countenanced in judicial procedure. Even assuming that the

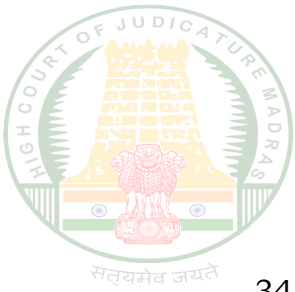


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petitioner may ultimately not be entitled to recall all witnesses, the petition under Section 217 Cr.P.C. ought to have been entertained and decided by a reasoned judicial order.

32. The prayer for transfer of trial stands on a different footing. Transfer of criminal trial is an extraordinary power to be exercised sparingly. Mere apprehension or subjective dissatisfaction cannot justify transfer unless circumstances disclose reasonable likelihood of bias or real danger of failure of justice.

33. The allegations levelled against the Presiding Officer in the present case are undoubtedly serious. However, this Court is conscious that judicial officers cannot be transferred merely because adverse procedural orders have been passed during trial. Criminal trials, especially murder trials involving multiple accused and numerous witnesses, often generate intense adversarial exchanges. Judicial comments, unless demonstrably indicative of prejudgment, cannot automatically constitute legal bias.



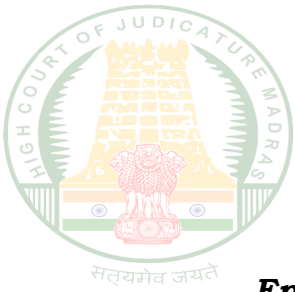
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34. Nevertheless, this Court cannot completely ignore certain surrounding circumstances:(i) alteration of serious charges at an advanced stage;(ii) grievance regarding non-entertainment of Section 217 petition;(iii) earlier observations made by this Court in connected proceedings regarding certain judicial questions posed during trial; and (iv) persistent perception entertained by the accused regarding denial of fair opportunity.

35. The criminal justice system survives not merely on actual fairness but equally on public perception of fairness. At the same time, wholesale transfer at this advanced stage may derail and further prolong the sessions trial.

36. Therefore, this Court is of the considered view that interests of justice would be sufficiently protected if:(i) the petitioner is granted liberty to pursue the Section 217 Cr.P.C. petition;(ii) the said petition is entertained and decided strictly on merits;(iii) further proceedings are deferred till such adjudication; and (iv) the learned trial Judge proceeds uninfluenced by any observations made either in this order or in earlier proceedings.



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Epilogue:

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37. Fair trial is not a privilege available only to the innocent; it is an indispensable constitutional assurance even to the accused standing at the gravest altar of criminal accusation. Simultaneously, procedural safeguards cannot be permitted to degenerate into instruments for indefinite prolongation of criminal adjudication.

38. Courts are therefore required to harmonise two competing imperatives, the right of the accused to defend himself effectively and the societal interest in timely completion of criminal trials. In the present case, this Court finds that the grievance relating to non-entertainment of the Section 217 Cr.P.C. petition deserves judicial correction. However, the materials presently available do not justify exercise of the extraordinary power of transfer.

39. In fine:

(i) CrI.O.P.(MD)No.1362 of 2026 is **allowed**.

(ii) The learned Principal District and Sessions Judge, Karur is directed to receive, number and dispose of the petitioner's application under Section 217 Cr.P.C. in S.C.No.17 of 2021 on its



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own merits and in accordance with law, after affording opportunity to all parties.

(iii) While deciding the said application, the learned trial Judge shall independently assess:

(a) whether alteration of charges has caused prejudice to the accused;

(b) whether recall of particular witnesses is necessary for effective defence; and

(c) whether the request is bona fide or intended merely for delay.

(iv) Till disposal of the Section 217 Cr.P.C. petition, further proceedings in S.C.No.17 of 2021 shall remain deferred.

(v) Crl.O.P.(MD)No.21832 of 2025 seeking transfer of trial stands **dismissed**.

(vi) However, the learned trial Judge shall thereafter proceed strictly in accordance with law, uninfluenced by any observations contained in this order. Consequently, connected miscellaneous petition is closed.

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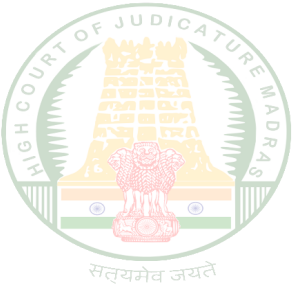
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To

1. The Principal District and Sessions Judge,
Karur
2. The Deputy Superintendent of Police,
through the Inspector of Police,
Karur Town Police Station,
Karur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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