



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-07-2026

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL OP No. 18124 of 2026

and

CRL.MP.No.12104 of 2026

Althab
S/o Rahaman,
No.9/17, Kariyan Street,
Roshanai Pattai,
Tindivanam, Villupuram.

..Petitioner(s)

Vs

The State Rep By, The Inspector of Police
Roshanai Police Station,
Villupuram.
Crime No.314 of 2018

..Respondent(s)

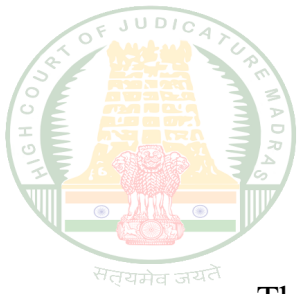
Prayer: This Criminal Original Petition filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita, 2023, praying to set aside the order dated
22.04.2025 in Crl.MP.No.1344 of 2025 in Spl.SC.No.202 of 2019 on the file of
Hon'ble Sessions Judge Magalir Neethimandram (Fast Track Mahila Court), at
Villupuram.

For Petitioner(s):

Mr.G.Mohammed Aseef

For Respondent(s):

Mr.R.Rajasekaran
Government Advocate (Criminal Side)



ORDER

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This Criminal Original Petition has been filed to set aside the order dated 22.04.2025 passed in Crl.MP.No.1344 of 2025 in Spl.SC.No.202 of 2019 on the file of learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Villupuram.

2. The case has been registered for the offences under Section 366 (A) of the IPC and Section 5(1) read with Section 6 of the POCSO Act. The occurrence is alleged to have taken place in the year 2018. The allegation against the petitioner is that he enticed the victim child (PW8), who was aged about 15 years at the time of the occurrence, and had physical relationship with her.

3. It is seen that, after being granted bail, the petitioner was required to appear before the Trial Court. However, he failed to do so, as a result of which a Non-Bailable Warrant was issued against him. The petitioner was subsequently apprehended and is presently in judicial custody.

4. It is further seen that 11 prosecution witnesses have already been examined. According to the petitioner, owing to the inconvenience of his counsel, the witnesses could not be cross-examined on the dates fixed by the



Trial Court. Hence, the present application has been filed seeking recall of the witnesses.

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5. Ordinarily, in cases arising under the POCSO Act, this Court would be slow in permitting recall of witnesses, particularly when such recall would have the effect of protracting the trial. In any event, the prayer for recalling PW8, the victim child, cannot be entertained in view of the mandate contained in Section 33(5) of the POCSO Act, which discourages repeated examination of the child victim.

6. However, insofar as the other witnesses are concerned, considering the peculiar facts and circumstances of the case, particularly the nature of the allegations relating to enticement and the need to afford the petitioner a fair opportunity to defend himself, this Court is inclined to grant one final opportunity to the petitioner.

7. Accordingly, the petitioner shall deposit a sum of Rs.2,000/- in respect of each witness sought to be recalled. Upon such deposit, the impugned order shall stand set aside insofar as it relates to PW1 to PW7 and PW9 to PW11. The Trial Court shall thereafter issue summons to the said witnesses on convenient dates. On the date of their appearance, the petitioner's counsel shall complete the cross-examination of the witnesses without seeking any



adjournment.



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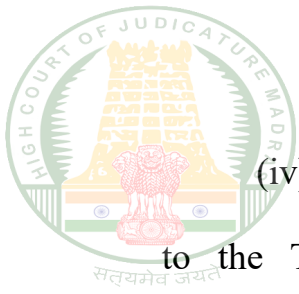
8. It is made clear that if the petitioner chooses not to recall any of the above witnesses, it is open to the Trial Court to proportionately reduce the costs and accept amounts in respect of only those witnesses sought to be recalled.

9. In view of the above, this Criminal original Petition is allowed on the following terms:-

(i) the petitioner shall deposit a total sum of Rs.20,000/-, being Rs.2,000/- each for the ten witnesses proposed to be recalled, excluding PW8, within a period of four weeks from the date of receipt of a web copy of the order.

(ii) Upon such deposit, the impugned order dated 22.04.2025 shall stand set aside insofar as it relates to PW1 to PW7 and PW9 to PW11.

(iii) The trial Court shall issue summons to the said witnesses on convenient dates and the petitioner shall complete the cross -examination on the very same day of their appearance without seeking any adjournment.



(iv) If the petitioner chooses not to recall any particular witness, it is open to the Trial Court to proportionately reduce the costs and accept the corresponding lesser amount.

Consequently, connected miscellaneous petition is closed.

13-07-2026

Neutral Citation: Yes/No

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To

1. Learned Sessions Judge, Magalir Neethimandram
(Fast Track Mahila Court), Villupuram.
2. The Inspector of Police
Roshanai Police Station,
Villupuram.
3. The Public Prosecutor,
Madras High Court.



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D.BHARATHA CHAKRAVARTHY, J.

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