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CrI.O.P.(MD).No.7747 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2026

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

CrI.O.P(MD)No.7747 of 2026

1. Raja
2. Chinraj
3. Prasath @ Prasanth

... Petitioners/Petitioners
Accused Nos.1 to 3

Vs

The State of Tamil Nadu,
Represented by
The Inspector of Police
Alangudi All Women Police Station,
Pudukkottai District.
(Crime No.12 of 2022)

... Respondent/Respondent
Complainant

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the order passed in CrI.M.P.No.279 of 2025 in Spl.S.C.No.10 of 2023 dated 02.11.2025 on the file of the Mahila Court, Pudukkottai and set aside the same and pass such further or other orders as this Court may deem fit.

For Petitioners : M/s.M.Benazir Begum

For Respondent : Mr.B.Arun
Counsel for State of TN(CrI.Side)



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ORDER

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The present petition has been filed by A1 to A3 in Spl.S.C.No.10 of 2023, on the file of the learned Sessions Judge, Mahila Court, Pudukottai, seeking to set aside the order passed in CrI.M.P.No.279 of 2025, wherein the request of the petitioners to recall P.W.1 to P.W.5 for the purpose of cross examination has been rejected.

2. A perusal of the records reveal that the petitioners are charged with the offences under Sections 120(B), 450, 294(b), 506(1) and 363 of IPC r/w. Sections 5(n), 5(g) and 6(1) of POCSO Act.

3. P.W.1 (victim) was chief examined on 06.10.2023. P.W2 and P.W.3, who are the parents of the victim, were also chief examined on the same day. P.W.4 and P.W.5, who are relatives of the victim, were chief examined on 12.10.2023 and 05.12.2023 respectively. They were not cross examined on the same day. The present application has been filed in the year 2025 seeking to recall all of them for cross-examination. This application was dismissed by the trial Court on the ground that the victim cannot be called again and subjected to harassment. Challenging the same, the present petition has been filed.



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4. According to the learned counsel appearing for the petitioners, it was not gang rape and the victim girl, after attaining majority had married the second accused on 18.10.2024 and the marriage has been registered on 21.10.2024 and the parties have entered into a compromise, pursuant to which the case was quashed. In view of the above said facts, there was a delay in filing the application under Section 311 of Cr.P.C seeking to recall P.W.1 to P.W5.

5. Heard the learned counsel appearing for the petitioners and perused the materials available on record.

6. It could be seen from the records that the second accused/Chinraj had married the victim girl on 18.10.2024 and the marriage was registered on 21.10.2024 before the Registrar of Marriages. The date of birth of the victim is 17.08.2005 and she had attained majority on 17.08.2023. After attaining majority, she had entered into a marriage.

7. As on today, the victim girl is aged about 21 years. In such circumstances, the rigour of Section 33 (5) of POCSO Act would not get



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attracted, especially, in the light of the fact that she has married one of the accused person. In the light of the peculiar circumstances of the case, this Court is inclined to allow the present application on the following terms.

a) the order passed in CrI.M.P.No.279 of 2025 is set aside and the petitioners shall be permitted to recall P.W.1 to P.W5;

b) the petitioners shall pay batta within a period of three days from the date of receipt of a copy of this order;

c) the petitioners shall complete the cross examination of the witnesses on the date on which they appear; and

d) No further opportunity shall be granted to the petitioners for cross examination of P.W.1 to P.W.5.

8. With the above said observation, this Criminal Original Petition is allowed.

17.08.2026

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Mahila Court,
Pudukottai.
2. The Inspector of Police
Alangudi All Women Police Station,
Pudukkottai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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