

Crl.OP(MD) No.13509 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.07.2026

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.13509 of 2026
and Crl.MP(MD) No.13150 of 2026

Jeyaram

... Petitioner

Vs

1. State of Tamilnadu Rep by
Inspector of Police, AWPS-Theni,
Crime No.8/2025.

2. Xxx

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS Act, to set aside the dismissal order in Crl.MP.No.150/2026 in Spl.SC.No.167/2025 on the file of the Special Court for POCSO Act cases, Theni dated 21.05.2026 and to direct the Special Court for POCSO Act cases, Theni to recall the witnesses PW1 to PW3 for further examination on the side of petitioner/Accused No.2.

For Petitioner : Mr.K.Vinayagan

For Respondents : Mr.B.Arun
Government Advocate (Crl.Side)
for R1



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ORDER

The present petition has been filed by the second accused in Spl.SC.No.167/2025 on the file of the Special Court for POCSO Act cases, Theni, seeking to set aside the order in Crl.M.P.No.150 of 2026, dated 21.05.2026, wherein, the application filed by the petitioner under Section 348 of BNSS has been rejected.

2.The petitioner along with another accused have been charged with the offence under Sections 5(l), 5(g), 5(m), 5(j), 8, 6 of POCSO Act and Sections 70, 96 and 127(2) of BNS.

3.The victim girl was chief examined on 27.11.2025 as PW1. The other relatives of the victim girl were examined on 02.12.2025 as PW2, PW3 and PW4. Only on 10.12.2025, the petitioner had engaged a counsel. Thereafter, the present application has been filed by the petitioner on 15.04.2026 seeking permission of the Court to recall PW1 to PW4 and the same was dismissed on the grounds that the victim girl cannot be called again and again for deposing before the Court, especially in view of Section 33(5) of the POCSO Act. Challenging the same, the present petition has been filed.



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4.The learned counsel appearing for the petitioner submitted that the second accused has not engaged any counsel when PW1 to PW4 were chief examined. The trial Court should have made some alternative arrangements by engaging a Legal-aid counsel. However, no counsel has engaged for A2 till 10.12.2025, by that time the chief examination of PW1 to PW4 has been completed. In such circumstances, in order to conduct a fair trial, the petitioner may be permitted to cross examine PW1 to PW4.

5.On instructions, the learned counsel appearing for the petitioner submits that he would not like to cross examine PW 4 and he restricts his prayer for cross examination of PW1 to PW3 alone.

6.Heard the learned counsel appearing for the petitioner and the materials available on record.

7.The facts narrated above will clearly indicate that the petitioner has engaged his counsel only on 10.12.2025. Even before that PW1 to PW4 have been chief examined. The Court has not made any arrangements for cross examination of these witnesses by engaging a Legal-aid counsel for A2. In such

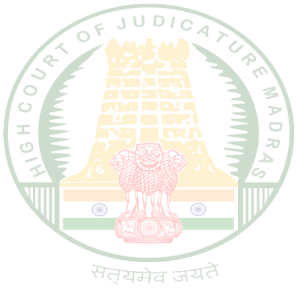


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circumstances, in order for a fair trial, the petitioner may be granted an opportunity to cross examine PW 1 to PW3.

8.In view of the above, this Court is inclined to pass the following orders.

- a) The impugned order in in Crl.MP.No.150/2026 in Spl.SC.No.167/2025, dated 21.05.2026 passed by the learned Sessions Judge, Special Court for POCSO Act cases, Theni is hereby set aside and the petitioner shall be permitted to recall and cross examine PW1 to PW3 alone;*
- b) the petitioner shall pay bata within a period of three days from the date of receipt of copy of this order;*
- c) the petitioner is directed to cross examine PW1 to PW3 on the date on which they appear;*
- d) the petitioner shall not be granted any further opportunity for cross examination of PW1 to PW3.*



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9. Accordingly, this Criminal Original Petition stands partly

allowed. Consequently, connected miscellaneous petition is closed.

07.07.2026

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
PNM

To

1. The Sessions Judge, Special Court for POCSO Act cases,
Theni

2. The Inspector of Police,
AWPS-Theni, Theni

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

PNM

ORDER MADE IN
Crl.OP.(MD)No.13509 of 2026
and Crl.MP(MD) No.13150 of 2026

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