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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:16.07.2026

CORAM

THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR

**Crl. OP(MD).No.14365 of 2026
and Crl.MP(MD).No.13917 of 2026**

Jeyavishwa

....Petitioner/Accused

Vs

The State Rep.by
The Inspector of Police
Uthamapalayam Police Station
Theni District

.....Respondent/Complainant

Prayer:The Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records in Cr.M.P.No.524 of 2025 in Spl.S.C.No.333 of 2023 dated 02.12.2025 on the file of the Principal Special Court for Exclusive Trial of cases under POCSO Act, Theni District and set aside the same and direct the trial Court to recall PW-1,2,6,7,8,11,14,15 and 16 for cross examination.

For Petitioner

: Mr.P.Ramesh

For Respondent

: Mr.B.Arun
Government Advocate (Crl.side)



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ORDER

The present petition has been filed by accused in Spl.S.C.No.333 of 2023 dated 02.12.2025 on the file of the Principal Special Court for Exclusive Trial of cases under POCSO Act, Theni District seeking to set aside the order wherein the application filed under Section 348 of BNSS, 2023 was dismissed.

2.A perusal of the records reveals that PW1, PW.2 (victim) and PW3 were chief examined on 23.05.2024. P.W. 6 to 8, 11, 14 to 16 were chief examined on 27.12.2024. However, the petitioner has not chosen to cross examine them. The present application has been filed under Section 348 of BNSS on 28.10.2025 seeking to recall P.W1, P.W.2, P.W6, P.W7, PW8, P.W.11 and P.W.14 to 16.

3.A perusal of the application reveals that due to change of counsel and non-availability of the bundle, the cross examination could not be conducted on the same day of chief examination. This application has been dismissed by the trial Court. Challenging the same, the present petition has been filed.

4.According to the learned counsel appearing for the petitioner, there was frequent changes in counsel, bundle is not handed over to the new counsel and therefore, cross examination could not be conducted.



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5. Heard the learned counsel appearing on either side and perused the material records.

6. The chief examination of PW16 has been completed in December 2024. The present application has been filed on 28.10.2025. The reason assigned by the petitioner is not legally sustainable. Considering the fact that the petitioner has been charged with the offence under Section 366 IPC and 5(1) and 6 of Protection of Child From Sexual Offences Act, 2012, the question of recalling the victim child again and again would not be possible, in view of Section 33(5) of POCSO Act.

7. In view of the above said facts, this Court does not find any illegality in the order passed by the trial Court. There are no merits in this petition. This Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

16.07.2026.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
msa



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To

- 1.The Principal Special Court for Exclusive
Trial of cases under POCSO Act, Theni District
- 2.The Inspector of Police
Uthamapalayam Police Station
Theni District
- 3.The Additional Public Prosecutor
Madurai Bench of Madras High Court



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R.VIJAYAKUMAR, J.

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