



Crl.O.P.No.24520 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 06.12.2022**

**CORAM**

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

**Crl.O.P.No.24520 of 2021**

Yogendra Singh Palwar

... Petitioner

/vs/

State Rep by  
The Inspector of Police,  
Katpadi Police Station,  
Cr.No.10 of 2018.

... Respondent

**Prayer :** Criminal Original Petition has been filed under Section 482 of Cr.P.C. to set aside the order passed in Crl.M.P.No.833 of 2021 in Spl.S.C.No.54/2018 dated 25.11.2021 on the file of the Special Court for exclusive trial of cases under POCSO Act 2012, at Vellore and recall P.W.1, P.W.2, P.W.5 and P.W.6 for cross examination.

For Petitioner

... Mr.G.Nirmal Krishnan

For Respondent

... Mr.A.Damodaran,  
Addl. Public Prosecutor



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## **ORDER**

**WEB COPY** This Criminal Original Petition has been filed to set aside the order passed in Crl.M.P.No.833 of 2021 in Spl.S.C.No.54/2018 dated 25.11.2021 on the file of the Special Court for exclusive trial of cases under POCSO Act 2012, at Vellore and recall P.W.1, P.W.2, P.W.5 and P.W.6 for cross examination.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. The petitioner is an accused who has been charged for the offence under Section 8 of POCSO Act and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. A petition has been filed by the petitioner to recall P.W.1, P.W.2, P.W.5 & P.W.6 for cross examination and the same was dismissed. Aggrieved over that, the petitioner has filed this Criminal Original Petition.

4. P.W.1 is the complainant. P.W.2 is the mother of the victim. P.W.5 & 6 are the police witnesses. The learned Sessions Judge has chosen to



dismiss the petition because of the default on the part of the petitioner to cross examine the witnesses on the day when they were present for chief examination.

5. The learned counsel for the petitioner submitted that in the interest of justice, the petitioner should be allowed to cross examine the witnesses.

6. The learned Additional Public Prosecutor submitted that the petitioner who failed to cross examine the witnesses on the day when they were present, have filed this petition just to harass the witnesses.

7. The witnesses who are sought to be recalled now have not been cross examined already. Though it is the fault of the petitioner that he had not availed the opportunity when it was available to him, without cross examining the witnesses the matter cannot be appreciated properly. However, the delay made by the petitioner cannot be viewed lightly and the petitioner has to pay cost to the hardship caused to the witnesses for



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recalling them at a belated stage. Hence I feel that the petition should be allowed on condition that the petitioner should pay cost to the witnesses.

8. In the result, this Criminal Original Petition is allowed and the order passed in Crl.M.P.No.833 of 2021 in Spl.S.C.No.54/2018 dated 25.11.2021 on the file of the Special Court for exclusive trial of cases under POCSO Act 2012, at Vellore is set aside on condition that the petitioner should pay the cost of Rs.1,500/- to P.W.1 and Rs.2,500/- to P.W.2 and Rs.750/- each for P.W.5 & P.W.6. The petitioner shall cross examine the witnesses as and when they are present and the cost should be paid before starting the cross examination. Witnesses should not be made to wait in the Court Corridor by frequent passing over of the matter. Failure to comply the said condition will deprive the benefit of this order and this order shall stand dismissed automatically.

**06.12.2022**

Index: Yes/No  
Internet: Yes/No  
gsk



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WEB COPY To

- 1.The Inspector of Police,  
Katpadi Police Station.
- 2.The Public Prosecutor,  
High Court, Madras.



WEB COPY



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**R.N.MANJULA ,J.**

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