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CrI.O.P.No. 3657 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.3657 of 2025

Govinda Sarki

... Petitioner

Vs.

State Represented by:
The Inspector of Police,
W-7, All Women Police Station,
Anna Nagar, Chennai 600 040.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to set aside the impugned order dated 18.12.2024 passed in CrI.M.P.No.1696 of 2024 by the learned Sessions Judge Special Court for the Exclusive Trial of POCSO Act in Special SC No.198 of 2023.

For Petitioner : Mr.S.Shujath

For Respondent : Mr.K.M.D.Muhilan,
Government Advocate (CrI.side)

ORDER

This Criminal Original Petition has been filed challenging the order dated 18.12.2024 in CrI.M.P.No.1696 of 2024 in Special SC



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No.198 of 2023 on the file of learned Sessions Judge Special Court for the Exclusive Trial of POCSO Act, thereby dismissing the application filed under Section 311 of Cr.P.C for recalling PW2 and PW5 for further cross examination.

2. The petitioner herein is the accused facing charges under Section 366(A) of IPC and Section 6 of POCSO Act, 2012. The prosecution has already examined 11 witnesses. When the matter was posted for the examination of the defence witnesses, the petitioner filed the petition in CrI.M.P.No.1696 of 2024 in Spl.SC.No.198 of 2023 seeking to recall PW2 and PW5 for further cross examination. PW2 is the victim and PW5 is the doctor who examined the victim.

3. On perusal of the records, it is evident that PW2 and PW5 were already cross examined in a detailed manner. As per Section 35 of POCSO Act, 2012, the evidence of the victim shall be recorded within a period of 30 days from the date of the report of the offence. Therefore, the victim girl cannot be repeatedly called to appear for cross



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examination. That apart, the petitioner had filed a similar petition to recall PW1 and PW5, which was dismissed by the Trial Court. Once the witnesses have been cross examined in a detailed manner, they cannot be subject for cross examination repeatedly unless new and material evidence comes to light.

4. In view of the above, this Court find no infirmity or illegality in the the order rejecting the petitioner's request to recall the witnesses. Accordingly, this Criminal Original Petition stands dismissed. However, the Trial Court is hereby directed to complete the trial within a period of three months from the date of receipt of a copy of this order.

12.02.2025

Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

shk

To

1. Sessions Judge Special Court for the Exclusive Trial of POCSO Act
2. The Public Prosecutor,
High Court, Madras.

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