



Crl.O.P.No.5301 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2025

CORAM:

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

Crl.O.P.No.5301 of 2025

Ravindran

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
AWPS Ammapet,
Salem District.
Cr.No.26/2020

... Respondent

Prayer: Criminal Original petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order passed in Crl.M.P.No.367 of 2022 in Spl.S.C.No.59 of 2021 pending on the file of the learned Session Judge, Principal POCSO Court, Salem, dated 09.05.2024.

For Petitioner : Mr.Naveen Kumar Murthy

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed as against the order dated 09.05.2024, passed by the learned Session Judge, Principal POCSO Court, Salem, in Crl.M.P.No.367 of 2022 in Spl.S.C.No.59 of



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2021, thereby dismissing the application filed under Section 311 of Cr.P.C., to recall P.W.1.

2. The petitioner is an accused in Spl.S.C.No.59 of 2021 on the file of the learned Session Judge, Principal POCSO Court, Salem. The prosecution had examined all witnesses and the matter has been posted for arguments. At that stage, the petitioner filed application to recall P.W.1 for cross-examination. The victim's mother was examined as P.W.1, who is the complainant in this case. On the date of chief examination the defense was not ready to cross-examine P.W.1 and waited for four years to file the recall petition. Further, the petitioner filed the recall petition at the stage, when the matter was posted for argument. Therefore, the trial Court dismissed the application to recall P.W.1 for cross examination by observing that it is nothing but drag the proceedings of the sessions case.

3. The learned counsel appearing for the petitioner submitted that within three days period, P.W.1 lodged two complaints before the Namakkal jurisdiction and Salem jurisdiction police station with same allegations. Therefore, he prayed to allow this petition.



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4. The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that the prosecution examined all the witnesses and now the case has been posted for arguments on 10.03.2025.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. Admittedly, P.W.1 lodged two complainant and both are difference occurrence against different accused. Therefore, it is nothing to do with the occurrence happened at Namakkal jurisdiction in which the petitioner is arrayed as account. On perusal of the evidence of victim, it is very clear and there is absolutely no evidence has been elicited during the cross examination of P.W.1. Further P.W.1 is only the complainant and when the victim girl was cross-examined in detailed manner, the non cross-examination of the complainant viz., P.W.1 would not cause any prejudice to the accused. That apart, now the matter has been posted for arguments on 10.03.2025. This Court finds no infirmity or illegality in the order passed by the trial Court.



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WEB COPY 6. Accordingly, the Criminal Original Petition stands dismissed.

25.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts



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To

1. The Session Judge,
Principal POCSO Court,
Salem.

1. The Inspector of Police,
AWPS Ammapet,
Salem District.

2. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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