



Crl.O.P.No.7555 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 13.03.2025

CORAM:

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

Crl.O.P.No.7555 of 2025

and

Crl.M.P.No.4851 of 2025

R.Thanigainathan

... Petitioner

Vs

State Rep. by
SHO, Muthandikuppam P.S.,
Cuddalore District.
Cr.No.324 of 2022

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S., to 1) stay all further proceedings of the case pending trial in Spl.S.C.No.100 of 2023, on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore, pending disposal of the Criminal Revision Petition. 2) Set aside the order dated 02.12.2024 passed in Crl.M.P.No.1229 of 2024 in Special S.C.No.100 of 2023, on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore.

For Petitioner : Mr.D.Senthilkumar

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



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ORDER

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This Criminal Original Petition has been filed challenging the order dated 02.12.2024 in Crl.M.P.No.1229 of 2024 in Special S.C.No.100 of 2023, on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore, thereby dismissing the petition filed under Section 311 of Cr.P.C., for cross examination of LW.1 to LW.3, who have been examined as PW.1 to PW.3.

2. Heard the learned counsel for both sides and perused the materials available on record.

3. The petitioner is an accused in Special S.C.No.100 of 2023 and he is facing charges under the POCSO Act. LW.1 is none other than the owner of the property and she is the victim at the hands of the petitioner. LW.2 is the wife and LW.3 is the sister-in-law of the petitioner. LW.1 to LW.3 were examined in chief, however, the petitioner failed to cross examine them. Therefore, the petitioner filed a petition to recall them within a period of the five days from the date of the chief examination.



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WEB COPY 4. Though the petitioner failed to cross examine LW.1, who is aged about 11 years, the victim cannot be repeatedly called to depose, since there is restriction under Section 33(5) of the POCSO Act. However, LW.2 and LW.3 may be cross examined, since the petitioner did not cross examine them so far.

5. In view of the above, the impugned order in Crl.M.P.No.1229 of 2024 in Special S.C.No.100 of 2023 is hereby set aside insofar as the LW.2 and LW.3 are concerned. The Trial Court is directed to fix a date for the cross-examination of LW.2 and LW.3. If the petitioner fails to cross-examine LW.2 and LW.3 on the date fixed by the Trial Court, the Trial Court is directed to proceed with the trial in accordance with law.

6. In the result, this Criminal Original Petition is partly allowed. Consequently, the connected Miscellaneous Petition is closed.

13.03.2025

Index : Yes/No
Neutral citation : Yes/No

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Speaking/non-speaking order

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To

1. The SHO, Muthandikuppam P.S.,
Cuddalore District.
2. The Special Court for Exclusive Trial of
Cases under POCSO Act, Cuddalore.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J,

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