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CrI.O.P.No.9077 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2025

CORAM:

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

CrI.O.P.No.9077 of 2025
and CrI.M.P.No.5993 of 2025

T.Prabhakaran

... Petitioner

Vs

State rep. by
The Inspector of Police,
All Women Police station,
Vellore.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and set aside the order passed by the learned Special Judge for Exclusive Trial of cases under Pocso Act, 2012, Vellore District in CrI.M.P.No.1683 of 2024 in Spl.S.C.No.23 of 2017 by order dated 06.02.2023.

For Petitioner : Mr.G.Nareshkumar

For Respondent : Mr.A.Gopinath
Govt.Advocate (CrI.,side)

ORDER

This petition has been filed to set aside the order passed by the learned Special Judge for Exclusive Trial of cases under Pocso Act, Vellore District in

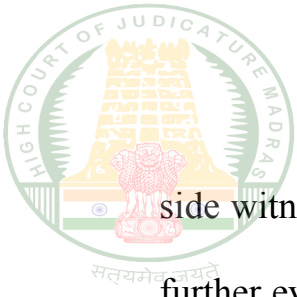


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Spl.S.C.No.23 of 2017 by order dated 06.02.2025. thereby allowing the application filed by the prosecution to reopen the prosecution side evidence and to summon the Project Incharge of the Ambu Illam to produce the Attendance Register year 2012-2016 and permit the prosecution to mark the xerox copies of the same .

2. Heard the learned counsel appearing on either side and perused the materials placed on record.

3. The petitioner is arrayed as 2nd accused in Spl.C.C.No.23 of 2017 and the charges were framed on 24.08.2017. There are totally five accused. It is seen from the records that A1 died and charges against A1 was abated and the case was tried against A2 to A5 against their charges. It appears that A1 is the main accused/offender and A2 to A5 have been charged for their abatement, failure to report about the offence, concealing the crime and protecting the A1 and for their criminal intimidation to cause death. After closing the prosecution side evidence, the case was directed to be posted for questioning under Section 311 of Cr.P.C.. There was no oral or documentary evidence adduced on the prosecution side to the effect that the first accused was the driver of Anbu Illam (School and rehabilitation centre for cerebral palsied children) on the relevant period of offence. Therefore, the trial Court suo motu opened the prosecution



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side witness - P.W.19 and directed the Investigation Officer - P.W.19 to provide further evidence. However, the investigation officer was absent before the trial Court.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the accused 2 to 5 are the staff of Anbu Illam and the first accused was the driver. Therefore, the learned Government Advocate filed the petition to reopen the prosecution side witness and also to produce the attendance register from the year 2012 to 2016 of the Anbu Illam. Admittedly, the first accused died and entire charges are abated against him.

5. According to the prosecution, the petitioner and other accused persons are facing charges for abatement and failure to report about the offences committed by the first accused. Though, no prejudice will be caused to the petitioner and other accused persons, no useful purpose would be served, if the Attendance Register of the Anbu Illam for the year 2012- 2016 and documents to be produced on the prosecution side, are not produced to show that the first accused was an employee of the Anbu Illam on the relevant period of alleged offence.

6. In view of the above, this Court is inclined to set aside the impugned order dated 06.02.2025. Accordingly, the order passed by the learned Special

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Judge for Exclusive Trial of cases under Pocso Act, Vellore District, in

Crl.MP.No.1683 of 2024 in Spl.S.C.No.23 of 2017 dated 06.02.2025 is hereby

set aside. The trial Court is directed to proceed with the trial in accordance

with law.

7. With the above directions, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

25.03.2025

Index : Yes/No

Neutral citation : Yes/No

Speaking/non-speaking order

kkd

To

1 The Special Judge for Exclusive Trial of cases
under Pocso Act, Vellore District

2. The Inspector of Police,
All Women Police station,
Vellore.

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

G.K.ILANTHIRAIYAN, J.



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