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Crl.O.P.No.11626 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2025

CORAM:

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

Crl.O.P.No.11626 of 2025

Karthikeyan

... Petitioner

Vs

State Rep by,
The Inspector of Police,
All Women Police Station,
Sooramangalam,
Salem District.
(Crime No.28 of 2021)

... Respondent

Prayer: Criminal Original Petition filed under 528 of BNSS., 2023, to set aside the order dated 08.08.2024 made in Crl.M.P.No.462 of 2024 in Spl.S.C.No.148 of 2022, on the file of the Sessions Judge, Principal POCSO Court, Salem.

For Petitioner : Mr.W.Camyles Gandhi

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



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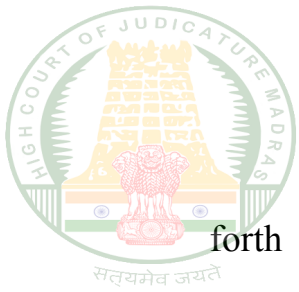
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ORDER

This petition has been filed challenging the order dated 08.08.2024 in Crl.M.P.No.462 of 2024 in Spl.S.C.No.148 of 2022, on the file of the Sessions Judge, Principal POCSO Court, Salem.

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

3. The petitioner is an accused and facing charges under Section 7 r/w 8 of POCSO Act, 2012. On the side of the prosecution, 7 witnesses had been examined, and the matter was posted for Investigating Officer's evidence. PW.1 and PW.2 were examined in chief as early as on 04.12.2023. Thereafter, the remaining witnesses were examined by the prosecution. However, on the date of chief examination, the petitioner did not cross-examine PW.1 and PW.2. After a period of two years from the date of their chief examination, now the petitioner filed a petition to recall PW.1 and PW.2. Admittedly, PW.1 is the mother of the victim and PW.2 is the victim, and the petitioner did not cross-examine so far. In order to put



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forth his defence, the petitioner may be given one more opportunity to cross-examine the victim.

4. Though there is a bar under Sections 33(5) and 33(6) of the POCSO Act to call upon the victim repeatedly for examination, the Hon'ble Supreme Court of India has held that in exceptional cases, the petitioner may be given one more opportunity to put forth his defence by way of cross-examination of the witnesses. So far, the victim has not been subjected to cross-examination.

5. In view of the above, the impugned order dated 08.08.2024 made in Crl.M.P.No.462 of 2024 in Spl.S.C.No.148 of 2022 is set aside only to the extent of allowing the cross examination of the PW.2 alone on condition that the petitioner shall pay a sum of Rs.5,000/- to the victim. The Trial Court is directed to fix the date for cross examination of the PW.2. If the petitioner failed to cross examine the PW.2 on the date fixed by the Trial Court, the Trial Court is directed to proceed with the trial in accordance with law.



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6. In the result, this Criminal Original Petition is partly allowed.

17.04.2025

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

To

1. The Inspector of Police,
All Women Police Station,
Sooramangalam,
Salem District.
2. The Sessions Judge, Principal POCSO Court,
Salem.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

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