



CrI.O.P.No.23154 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2025

CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

CrI.O.P.No.23154 of 2025
and CrI.M.P.No.15818 of 2025

Ravi

... Petitioner

Vs.

State represented by,
The Station House Officer,
AWPS,
Cuddalore District.
(Crime No.42 of 2024)

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 Cr.P.C./528 of BNSS, to set aside the order passed in CrI.M.P.No.141 of 2025 in Spl.S.C.No.135 of 2024 dated 16.04.2025 on the file of the learned Special Court for Exclusive Trial of Cases under POCSO Act at Cuddalore and consequently, allow the same.

For Petitioner : Mr.N.U.Pressanna

For Respondent : Mr.R.Vinothraja
Government Advocate (Criminal Side)

ORDER

Challenging the order of the trial Court dated 16.04.2025, dismissing the petition filed by the petitioner in CrI.M.P.No.141 of 2025 in



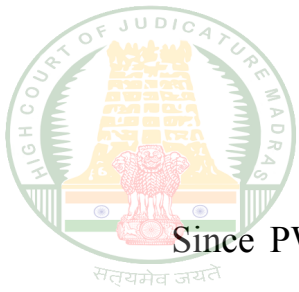
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Spl.S.C.No.135 of 2024, under Section 311 Cr.P.C to recall PW1 to PW3

for the purpose of cross examination, the present Criminal Original Petition has been filed.

2. The petitioner is an accused in Crime No.42 of 2024, registered for the offences punishable under Section 87 of BNS and Sections 5(m) & 6 of Protection of Children from Sexual Offences Act, 2012. The case is now pending trial before the Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore, in Spl.S.C.No.135 of 2024. PW1/complainant, PW2/ victim, aged nine years and PW3 were not cross examined on the date of their chief examination. However, all other witnesses have been cross examined. Thereby, the petitioner filed a petition in Crl.M.P.No.141 of 2025 seeking to recall PW1 to PW3 for cross examination. The trial Court dismissed the petition holding that the victim and other witnesses cannot be repeatedly summoned for cross examination. Hence, the present petition has been filed.

3. It is the contention of the learned counsel for the petitioner that due to a change of counsel, the petitioner was not able to ascertain the exact stage of proceedings and therefore, PW1 to PW3 were not cross examined.



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Since PW1 to PW3 are said to be eye witnesses, it is necessary to cross examine them. Hence, he prayed that the petitioner may be permitted to cross examine PW1 to PW3.

4. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Criminal Side) and perused the materials available on record.

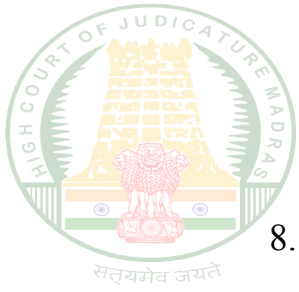
5. On perusal of the records of the trial Court, this Court is of the view that the order of the trial Court does not warrant interference. The fact remains that, when an Advocate is engaged in a serious case which attracts maximum punishment, it is the duty of the every Advocate to safeguard the interest of their client. The counsel cannot approach the sessions cases casually and allow witnesses to be examined without cross examination. Such conduct, in the view of this Court, is clearly against professional ethics. When a counsel is engaged to protect the interest of the accused, it is his duty to cross examine the witnesses. Casually allowing the witnesses to be examined without cross examination, thereby, neglecting the interest of the accused, is unprofessional.



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WEB COPY 6. In this case, the then counsel, who appeared for the accused before the trial Court had very purposely, not taken care of the interest of the petitioner/accused. Taking note of the above facts and circumstances of the case and considering that the offences herein attracts the maximum punishment, this Court is inclined to grant one more opportunity to the petitioner to cross examine PW1 to PW3, subject to payment of cost.

7. Accordingly, this Criminal Original Petition is allowed and the order passed by the learned Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore, in Crl.M.P.No.141 of 2025 in Spl.S.C.No.135 of 2024, dated 16.04.2025, is set aside. The petitioner is directed to deposit a sum of Rs.30,000/- (Rupees Thirty Thousand only) before the trial Court. On such deposit, the trial Court shall recall PW1 to PW3 and fix a date for their cross examination. It is made clear that the petitioner shall cross examine the said witnesses on the very same day of their appearance and in the event of the petitioner failing to cross examine the witnesses, the right of the petitioner to cross examine them shall be forfeited.



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8. The trial Court shall disburse a sum of Rs.10,000/- to each of the witnesses, namely PW1 to PW3, on the date of their appearance.

Consequently, the connected miscellaneous petition is closed.

21.08.2025

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Neutral Citation: Yes/No

To

1. The Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore
2. The Station House Officer, AWPS, Cuddalore District.
3. The Public Prosecutor, High Court of Madras.



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N. SATHISH KUMAR, J.

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