



Crl.O.P.No.23192 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2025

CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.No.23192 of 2025

D.Chandhiramoorthi

... Petitioner

Vs.

State represented by,
The Inspector of Police,
AWPS, Kottakuppam,
Villupuram District.
(Crime No.1 of 2021)

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 Cr.P.C./528 of BNSS, to set aside the order dated 09.07.2025 passed in Crl.M.P.No.412 of 2025 in Spl.S.C.No.39 of 2021 by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act at Villupuram and allow the petitioner's application under Section 348 BNSS to recall PW1, PW2, PW3, PW10, PW15 and PW16 for cross examination.

For Petitioner : Mr.K.Vijayakumar

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

ORDER

Challenging the order of the trial Court dated 09.07.2025, dismissing the petition filed by the petitioner in Crl.M.P.No.412 of 2025 in



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Spl.S.C.No.39 of 2021, under Section 348 BNSS to recall PW1, PW2, PW3,

WEB COPY PW10, PW15 and PW16 for the purpose of cross examination, the present

Criminal Original Petition has been filed.

2. The petitioner is an accused in Crime No.1 of 2021, registered for the offences punishable under Section 506(1) BNS and Sections 5(l), 5(n), 5(j)(ii) & 6 of Protection of Children from Sexual Offences Act, 2012 @ Sections 341, 342, 506(2), 177 of IPC and Sections 5(l), 5(n), 5(j)(ii) & 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, Villupuram, in Spl.S.C.No.39 of 2021. The petitioner filed a petition in Crl.M.P.No.412 of 2025 seeking to recall PW1, PW2, PW3, PW10, PW15 and PW16 for cross examination. The trial Court dismissed the petition holding that the petitioner had filed the petition without any plausible reasons and had filed it only to protract the proceedings. 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 witnesses PW1, PW2, PW3, PW10, PW15 and PW16 were not cross examined. Among them, PW1 to PW3 are



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material witnesses, PW10 and PW15 are medical experts and PW16 is the

Investigation Officer,. Therefore, it is necessary to cross examine them.

Hence, he prayed that the petitioner may be permitted to cross examine them.

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 suffer from infirmity. 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.



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, PW2, PW3, PW10, PW15 and PW16, subject to payment of cost.

7. Accordingly, this Criminal Original Petition is allowed and the order passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram, in Crl.M.P.No.412 of 2025 in Spl.S.C.No.39 of 2021, dated 09.07.2025, is set aside. The petitioner is directed to deposit a sum of Rs.12,000/- (Rupees Twelve Thousand only) before the trial Court. On such deposit, the trial Court shall recall PW1, PW2, PW3, PW10, PW15 and PW16 and fix a date for their cross examination. It is made clear that the petitioner shall cross examine the said witnesses within two days 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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WEB COPY 8. The trial Court shall disburse a sum of Rs.2,000/- to each of the witnesses, namely PW1, PW2, PW3, PW10, PW15 and PW16, on the date of their appearance.

21.08.2025

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Neutral Citation: Yes/No

To

1. The Sessions Judge,
Special Court for Exclusive Trial of Cases under POCSO Act,
Villupuram
2. The Inspector of Police,
AWPS, Kottakuppam,
Villupuram District.
3. The Public Prosecutor,
High Court of Madras.



WEB COPY



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N. SATHISH KUMAR, J.

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