



CrI.O.P.No.23453 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2025

CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

CrI.O.P.No.23453 of 2025

S.Guganathan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
W-19 All Women Police Station,
Adayar, Chennai. (Crime No.3 of 2022)

... Respondent

PRAYER : Criminal Original Petition is filed under Section 528 of BNSS, to issue direction to the learned Special Judge for POCSO cases, Chengalpet, for providing a child friendly environment, protecting the identity, dignity and well being of child victims during trial to ensure a safe and secure atmosphere for PW2 and PW3 during their testimony and conducting a fair trial in Special S.C.No.57 of 2022 pending on the file of the learned Special Judge fr POCSO cases, Chengalpet.

For Petitioner : Mr.M.Govindaraju

For Respondent : Mr.R.Vinothraja

Government Advocate (Criminal Side)

ORDER

The Criminal Original Petition has been filed by the father of the minor victim girl in Special S.C.No.57 of 2022 pending on the file of the learned Special Judge fr POCSO cases, Chengalpet, seeking to protect the



Crl.O.P.No.23453 of 2025

victim from unnecessary harassment made by the group of lawyers during
victim's examination-in-chief and cross examination.

2. It is the case of the petitioner that his daughter is a victim in Crime No.3 of 2022, registered for the offence under Sections 11(4), 12, 5(1), 6 & 11(5) of POCSO Act and Sections 354C, 366 & 506(i) of IPC. When PW1 appeared before the trial Court on 13.08.2025, despite the directions issued by the learned Sessions Judge and the learned Public Prosecutor to the Advocates not to crowd the witness box, seven lawyers claiming to be defence counsel surrounded the witness box and harassed PW1. Consequently, the matter was adjourned to 22.08.2025 for further evidence.

3. According to the petitioner, the victim is now not in a position to appear before the Court since no safeguards have been ensured by the Court for protecting the witness, as mandate under law. Hence, the present petition has been filed.



WEB COPY

4. In such view of the matter, this Court directs the learned Special Judge for POCSO cases, Chengalpet, to strictly follow the procedure as contemplated under Section 33 of the POCSO Act. For the sake of convenience, Section 33 of the POCSO Act is extracted hereunder :-

Section 33 - Procedure and powers of Special Court

- (1) A Special Court may take cognizance of any offence, without the accused being committed to it for trial, upon receiving a complaint of facts which constitute such offence, or upon a police report of such facts.
- (2) The Special Public Prosecutor, or as the case may be, the counsel appearing for the accused shall, while recording the examination-in-chief, cross-examination or reexamination of the child, communicate the questions to be put to the child to the Special Court which shall in turn put those questions to the child.
- (3) The Special Court may, if it considers necessary, permit frequent breaks for the child during the trial.
- (4) The Special Court shall create a child-friendly atmosphere by allowing a family member, a guardian, a friend or a relative, in whom the child has trust or confidence, to be present in the court.
- (5) The Special Court shall ensure that the child is not called



repeatedly to testify in the court.

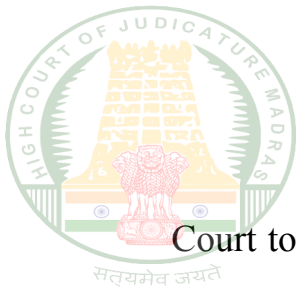
- (6) The Special Court shall not permit aggressive questioning or character assassination of the child and ensure that dignity of the child is maintained at all times during the trial.
- (7) The Special Court shall ensure that the identity of the child is not disclosed at any time during the course of investigation or trial:

Provided that for reasons to be recorded in writing, the Special Court may permit such disclosure, if in its opinion such disclosure is in the interest of the child.

Explanation.--For the purposes of this sub-section, the identity of the child shall include the identity of the child's family, school, relatives, neighbourhood or any other information by which the identity of the child may be revealed.

- (8) In appropriate cases, the Special Court may, in addition to the punishment, direct payment of such compensation as may be prescribed to the child for any physical or mental trauma caused to him or for immediate rehabilitation of such child.
- (9) Subject to the provisions of this Act, a Special Court shall, for the purpose of the trial of any offence under this Act, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session, and as far as may be, in accordance with the procedure specified in the Code of Criminal Procedure, 1973(2 of 1974) for trial before a Court of Session.

5. In view of the above, it is mandatory on the part of the trial

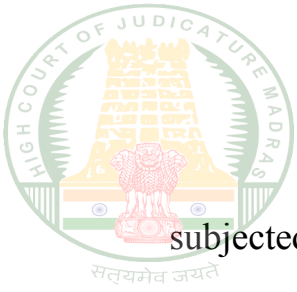


Court to ensure a child-friendly atmosphere by permitting the presence of a family member, guardian, friend or relative in whom the child has trust or confidence. Similarly, it is the duty of the court to prevent aggressive questioning or character assassination of the child and to ensure that the dignity of the child is maintained at all times during the trial. Further, the identity of the child shall not be disclosed at any stage during the course of investigation or trial.

6. Therefore, during the examination of the victim, the trial Court shall ensure that except the counsel appearing for the accused, no other person is permitted to stand in front of the witness box. Allowing such lawyers to stand before the witness box would amounts to coercing the witness.

7. It is further to be noted any questions to be put to the victim shall first be addressed to the learned Sessions Judge and thereafter, the learned Judge, may communicate the same to the child, instead of permitting direct questions touching upon the character.

8. The trial Court shall strictly follow all the above directions and shall ensure that the victim is examined in a friendly manner without being



Crl.O.P.No.23453 of 2025

subjected to unnecessary harassment.

WEB COPY

9. Accordingly, this Criminal Original Petition stands disposed of with the aforesaid directions.

25.08.2025

ham

Neutral Citation: Yes/No

To

1. The Special Judge for POCSO cases, Chengalpet.
2. The Inspector of Police,
W-19 All Women Police Station,
Adayar, Chennai.
3. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.23453 of 2025

N. SATHISH KUMAR, J.

ham

Crl.O.P.No.23453 of 2025

25.08.2025