



Crl.O.P.No.24104 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2025

CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.No.24104 of 2025
and Crl.M.P.No.16485 of 2025

Sivam Patanayak @ Sivam Pattanayak ... Petitioner

Vs.

The State represented by,
The Inspector of Police,
AWPS - South Police Station,
Tiruppur District. ... Respondent

PRAYER : Criminal Original Petition is filed under Section 528 of BNSS, to set aside the order dated 28.03.2025 made in Crl.M.P.No.1 of 2025 in Spl.S.C.No.144 of 2022 on the file of the Fast Track Mahila Court at Tiruppur.

For Petitioner : Mr.Deepan Uday

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

ORDER

Challenging the order of the trial Court dated 28.03.2025, dismissing the petition filed by the petitioner in Crl.M.P.No.1 of 2025 in Spl.S.C.No.144 of 2022, under Section 311 Cr.P.C to recall PW1 for the

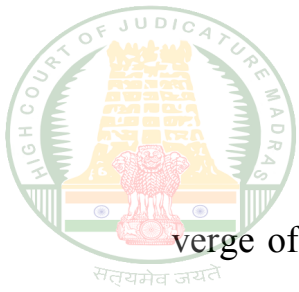


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purpose of cross examination, the present Criminal Original Petition has been filed.

2. It is the contention of the learned counsel for the petitioner that the petitioner is an accused in Crime No.270 of 2022, registered for the offences punishable under Sections 366(A) of IPC r/w Sections 5(1) & 6 of Protection of Children from Sexual Offences Act, 2012. The case is now pending trial before the Fast Track Mahila Court, Tiruppur, in Spl.S.C.No.144 of 2022. The trial Court dismissed the petition filed by the petitioner in Crl.M.P.No.1 of 2025 seeking to recall PW1 for cross examination, by referring to Section 33(5) of POCSO Act and holding that the victim is a minor and cannot be repeatedly summoned for cross examination. Aggrieved by the same, the present petition has been filed.

3. Learned counsel appearing for the petitioner submitted that there are 21 witnesses in this case, out of which, 7 have already been examined. Due to a change of counsel, the petitioner was not able to cross examine PW1 and therefore, the petitioner filed a petition in Crl.M.P.No.1 of 2025 seeking to recall PW1 for cross examination. He further submitted that PW1 and the accused were in love and that the victim is now on the



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verge of attaining majority and a marriage proposal is under consideration

WEB COPY between them. Hence, he prayed to allow the petition.

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

5. A perusal of the evidence of PW1 indicates that she fell in love with the accused and went with him. Now the matter has been settled and a marriage proposal between the accused and PW1 is under consideration. PW1 will attain the age of 18 by next month.

6. Be that as it may, considering the adolescent age of both the petitioner and PW1, this Court is inclined to grant one more opportunity to the petitioner to cross examine PW1.

7. Accordingly, this Criminal Original Petition is allowed and the order passed by the learned Fast Track Mahila Court, Tiruppur, in Crl.M.P.No.1 of 2025 in Spl.S.C.No.144 of 2022, dated 28.03.2025, is set aside. The trial Court shall recall PW1 and fix a date for cross examination.



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It is made clear that the petitioner shall cross examine the said witness on the very same day of her appearance. Consequently, the connected miscellaneous petition is closed.

03.09.2025

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Neutral Citation: Yes/No

To

1. The Fast Track Mahila Court,
Tiruppur
2. The Inspector of Police,
AWPS - South Police Station,
Tiruppur District.
3. The Public Prosecutor,
High Court of Madras.



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N. SATHISH KUMAR, J.

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