



CrI.O.P.No.31129 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2025

CORAM:

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.31129 of 2025

Vetri @ Manikandan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Kodavasal Police Station,
Thiruvarur District.

... Respondent

PRAYER : Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita/Section 482 Cr.P.C., to set aside the order dated 13.03.2025 in CrI.M.P.No.1 of 2025 in Spl.S.C.No.4 of 2021 on the file of the learned Sessions Judge, Fast Track Court, Tiruvarur and recall the prosecution side witnesses PW1 to PW14 for cross-examination.

For Petitioner : Ms.K.Shreenidhi
for Mr.G.Prabhu

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



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ORDER

The present Criminal Original Petition has been filed seeking to set aside the order passed by the learned Sessions Judge, Fast Track Court, Tiruvarur, dated 13.03.2025, in Crl.M.P.No.1 of 2025 in Spl.S.C.No.4 of 2021, dismissing the petition filed by the petitioner under Section 311 Cr.P.C (corresponding to Section 348 of BNSS).

2. The brief facts of the case are as follows :-

2.1. The petitioner is an accused facing trial in Spl.S.C.No.4 of 2021 before the Fast Track Court, Tiruvarur, for the offences punishable under Sections 366(A) of IPC and Sections 5(l) r/w 6 of POCSO Act, in Crime No.1531 of 2020, on the file of the respondent Police.

2.2. In the said case, the petitioner/accused filed a petition in M.P.No.1 of 2025 under Section 311 Cr.P.C., seeking to recall witnesses PW1 to PW14. The learned Sessions Judge, finding that the case has been pending from the year 2021 and that the petition was filed when the main



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case was posted for further proceedings, dismissed the petition, vide order dated 13.03.2025. Aggrieved over the same, the present petition has been filed.

3. Learned counsel appearing for the petitioner submitted that since the petitioner was not given a proper legal assistance, the trial Court had engaged the services of the District Legal Services Authority, Tiruvarur and a Legal Aid Counsel representing the petitioner had filed the petition to recall witnesses PW1 to PW14. However, the trial Court had dismissed the petition without considering the reasons put forth by the petitioner. She further submitted that the petitioner/accused is facing trial for serious offences under POCSO Act and that the presumption under Section 29 of the Act operates against the petitioner. Therefore, if the petitioner is not given a chance to rebut the presumption against him by cross-examining the witnesses, it will be putting him to a great predicament. Hence, she prayed to set aside the order dated 13.03.2025.

4. Per contra, the learned Government Advocate (Criminal Side) submitted that despite several opportunities being granted, the petitioner failed to cross-examine the witnesses. He further submitted that



there is a bar under Section 33(5) of the POCSO Act, which directs the Special Court to ensure that the victim child is not repeatedly called to testify in the court. He also submitted that all other witnesses in this case are from the local area and that the respondent would be able to produce them on a date fixed by the trial Court.

5. Having heard the learned counsel appearing on either side and perused the materials available on record, it is seen from the records that the petitioner was represented by a Legal Aid Counsel and he has filed a petition to recall the witnesses. This Court is of the view that if the petitioner is not given a chance to cross-examine the witnesses other than the victim/PW1, it would cause serious prejudice to him. Therefore, the petitioner should be given one opportunity to cross-examine the witnesses, except the victim/PW1.

6. In view of the above, the Criminal Original Petition stands partly allowed. The petition, in so far as it relates to recalling the victim/PW1, is dismissed. The trial Court shall recall PW2 to PW14 and fix a date for their cross-examination. The petitioner shall ensure that all the said witnesses are cross-examined on the same day of their appearance



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before the trial Court. In the event of the petitioner not cross-examining the witnesses, no further opportunity shall be granted to him.

13.11.2025

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Neutral Citation: Yes/No

Note : Issue order copy today (13.11.2025)

To

1. The Sessions Judge,
Fast Track Court, Tiruvarur.
2. The Inspector of Police,
Kodavasal Police Station,
Thiruvarur District.
3. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

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