



WEB COPY

CRL OP No. 28587 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 28587 of 2025

and

Crl.M.P.No.19327 of 2025

P.Siva

S/o.Paventhan

Petitioner(s)

Vs

The State of Tamilnadu Rep by,
The Inspector of Police, AWPS
Tindivanam, Villupuram District.

Respondent(s)

PRAYER

This Criminal Original Petition filed under Section 528 of BNSS to call for the entire records and set aside the order dated 29.07.2025 in Crl.M.P.No.543 of 2025 in Spl.S.C.No.107 of 2021 passed by the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Villupuram.

For Petitioner(s): Mr.T. Elumalai

For Respondent: Mr. R.Vinothraja,
Govt. Advocate(crl.side)



ORDER

Challenging the order of the Trial Court dismissing the application filed under Section 311 Cr.P.C. to recall P.W.1, the petitioner has approached this Court.

2. The petitioner is facing charges under Sections 5(1), 5(n), 5(j)(ii), r/w. 6 of POCSO Act 2012 and Section 342 and 506(ii) IPC.

3. During Trial, PWs.1 to 3 were examined on 02.05.2024, 14.11.2024 and 07.12.2024. However, the lawyer, who appeared for the accused, was so casual and reckless in discharging his duty that he failed to cross examine the witnesses. Thereafter, at his convenience, he filed an application seeing to recall the said witnesses. While taking note of the fact that the Trial Court had observed that the victim under the POCSO Act shall not be recalled repeatedly, the Trial Court dismissed the application. However, the application was allowed only in respect of PWs.2 and 3. Challenging the same, the present petition has been filed.



4. I have heard both sides and carefully perused the entire materials available on records.

WEB COPY

5. The manner in which the defence lawyer conducted the case so casually indicates that he dealt with the case without due seriousness, thereby endangering the life and liberty of the accused. When a person is engaged to defend an accused, particularly in a case involving a serious offence, it is the duty of the lawyer to conduct the case diligently then and there. He cannot treat the proceedings as his playground, casually allowing the witnesses to remain un-confronted and later filing a petition seeking recall.

6. This Court is of the view that such conduct on the part of a defence counsel, especially in sessions cases, in allowing the witnesses to remain un-confronted, invites disciplinary proceedings.

7. Be that as it may, considering the fact that though the victim child need not be recalled, the fact remains that the victim girl has now attained majority. Since her evidence remains un-confronted, this Court is of the view that,



considering the gravity of the offence, one more opportunity may be granted to the petitioner to cross examine the victim, subject to payment of cost. a cost of Rs.10,000/- payable to the victim.

8. Accordingly,

(i) the petitioner is directed to deposit a sum of Rs.10,000/-(Rupees Ten Thousand only) to the credit of Spl.S.C.No.107 of 2021 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram, within a period of one week from the date of receipt of a copy of this order.

(ii) Upon such deposit, the Trial Court shall recall P.W.1 and fix a date for cross examination on the same day. The cross examination shall be completed on the very same day as fixed by the Trial Court.

(iii) In the event the petitioner fails to cross examine the witness on that date, the further right of cross examination shall stand forfeited.

(iv) After completion of cross examination of the victim, the Trial Court shall pay the said deposited amount of Rs.10,000/- to the victim.



WEB COPY

9. With the above directions, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

22-10-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

mrp

To

1. The Special Court for Exclusive Trial of
Cases under POCSO Act,
Villupuram.
2. The Inspector of Police,
AWPS Tindivanam,
Villupuram District.



WEB COPY

CRL OP No. 28587 of 2025



N.SATHISH KUMAR J.

mrp

CRL OP No. 28587 of 2025

22-10-2025