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CrI.O.P.No.31321 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2025

CORAM:

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

CrI.O.P.No.31321 of 2025

Askar Ali @ Ajjiboy

... Petitioner

Vs.

The State of Tamil Nadu represented by,
The Station House Officer,
AWPS Tirukovilur Police Station,
Kallakurichi District.
(Crime No.8 of 2020)

... 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 08.04.2025 in CrI.M.P.No.235 of 2024 in Spl.S.C.No.70 of 2024 on the file of the Principal District Court, Kallakurichi.

For Petitioner : Mr.S.Nedunchezhiyan

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

ORDER

The present Criminal Original Petition has been filed seeking to set aside the order passed by the Principal District Court, Kallakurichi, dated 08.04.2025, in CrI.M.P.No.235 of 2024 in Spl.S.C.No.70 of 2024,



Cr.L.O.P.No.31321 of 2025

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.70 of 2024 before the Principal District Court, Kallakurichi, for the offences punishable under POCSO Act, in Crime No.8 of 2020, on the file of the respondent Police.

2.2. In the said case, the petitioner/accused filed a petition in Cr.L.M.P.No.235 of 2024 under Section 311 Cr.P.C., seeking to recall witnesses PW1, PW2, PW11 and PW13 for further cross-examination. The learned Principal District and Sessions Judge, finding that the petition had been filed only to procrastinate the proceedings, dismissed the petition, vide order dated 08.04.2025. Aggrieved over the same, the present petition has been filed.

3. Learned counsel appearing for the petitioner submitted that the cross-examination of witnesses PW1, PW2, PW11 and PW13 is required in order to arrive at a just decision in the case. He further submitted that

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Crl.O.P.No.31321 of 2025

since certain important questions were left to be put to them, the petition was filed seeking to recall the said witnesses. However, the trial Court, without taking into consideration the necessity of recalling those witnesses, dismissed the petition vide order dated 08.04.2025. Hence, he prayed to set aside the said order and permit him to recall the witnesses.

4. Per contra, the learned Government Advocate (Criminal Side) submitted that PW1 is the de facto complainant, PW2 is the minor victim girl, who is now aged about 12 years, PW11 is the Doctor and PW13 is the Investigating Officer. He further submitted that the witnesses were extensively cross-examined by the petitioner. However, the petitioner filed the petition to recall those witnesses only to protract the proceedings. He further submitted that as per Section 33(5) of the POCSO Act, the Special Court shall ensure that the victim child is not repeatedly called to testify in the court. Therefore, the trial Court, finding the same and holding that no details have been given by the petitioner to justify his prayer, rightly dismissed the petition and the order does not require any interference. He also submitted that the case now stands posted for defence evidence. Hence, he prayed for dismissal of the present petition.



CrI.O.P.No.31321 of 2025

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5. Having heard the learned counsel appearing on either side and upon perusal of the materials available on records, this Court finds that the petitioner had already cross-examined the witnesses in detail and had not stated any valid reason to cross-examine them once again. Therefore, the petition was filed only to protract the proceedings and that the trial Court rightly dismissed the same. This Court does not find any illegality or infirmity in the order passed by the trial Court.

6. Accordingly, this Criminal Original Petition stands dismissed.

17.11.2025

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Neutral Citation: Yes/No

To

The Principal District Court, Kallakurichi.



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Crl.O.P.No.31321 of 2025

A.D.JAGADISH CHANDIRA, J.

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Crl.O.P.No.31321 of 2025

17.11.2025