



CrI.O.P.No.34032 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2025

CORAM:

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

CrI.O.P.No.34032 of 2025

and

CrI.MP.No.23772 of 2025

K.Muthu

...Petitioner

Vs.

The State of Tamil Nadu rep. by,
The Inspector of Police,
W-7, All Women Police Station,
Anna Nagar, Chennai.

...Respondent

Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita/Section 482 Cr.P.C., to set aside the order passed by the Special Court for Exclusive Trial of POCSO Act cases, Chennai in CrI.MP.No.1595 of 2025 in Spl.SC.No.96 of 2021 and enable the petitioner to cross examine the PW-1(Mrs.Kasthuri W/o. Bhaoopalan), PW-2 (Ms.Revathi D/o. Bhooplan) and PW-3 (Mr.Bhoopalan S/o Munuswamy) in this case.

For Petitioner : Mr.K.M.Subrahmaniam

For Respondent : Mr.S.Santhosh, GA (CrI. Side)



CrI.O.P.No.34032 of 2025

ORDER

The criminal original petition has been filed seeking to set aside the dismissal order dated 14.11.2025 passed by the Special Court for Exclusive Trial of POCSO Act cases, Chennai in CrI.MP.No.1595 of 2025 in Spl.SC.No.96 of 2021.

2. The brief facts are as follows:

The petitioner/accused is facing trial in Spl.SC.No.96 of 2021 on the file of learned Special Court for Exclusive Trial of POCSO Act cases, Chennai for the offences under Sections 8 and 12 of the POCSO Act, 2012. The petitioner filed a petition under Section 311 of Cr.P.C. seeking to recall the witnesses P.W.1 to P.W.3. However, the Special Court, vide impugned order dated 14.11.2025, had dismissed the said recall petition. Challenging the same, the present petition has been filed.

3. Learned counsel for the petitioner submitted that as the learned counsel who appeared on behalf the petitioner before the trial court was suffering from serious health ailments, he was unable to cross-examine the witnesses P.W.1 to P.W.3 on the date specified for cross-examination and the same is neither wilful nor wanton. Hence, the petitioner filed an adjournment/defer petition, however, the trial court had mechanically



Crl.O.P.No.34032 of 2025

dismissed the same. Subsequently, the petitioner filed the present petition under Section 311 of Cr.P.C., seeking to recall P.Ws.1 to 3 for cross-examination, which is an application filed by the petitioner for the first time, as the same is absolutely necessary, in order to enable the trial court to arrive at a just and reasonable decision and that the petitioner has not filed recall petition to recall the witnesses repeatedly. However, the trial Court, without considering any of the above said facts, had dismissed the petition under Section 311 Cr.P.C. which is not sustainable. He also submitted that if the petitioner is not permitted to recall P.Ws.1 to 3 for cross-examination, he would be put to grave hardship. He further submitted that cross-examination of the witnesses will be done on the same day on which they appear before the trial court. Hence, he prayed that the impugned dismissal order may be set aside and the trial Court may be directed to recall the witnesses P.W.1 to P.W.3.

4. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent submitted that as per Section 33(5) of the POCSO Act, the Special Court shall ensure that the child is not called repeatedly to testify in the Court. Hence, the trial court had rightly dismissed the petition filed by the petitioner under Section 311 of Cr.P.C., which cannot be said to be erroneous. He also submitted that the case is now

3/6



Crl.O.P.No.34032 of 2025

posted on 21.01.2026 for examination of I.O. However, the learned Government Advocate (Crl. Side) fairly submitted that the victim has been examined as P.W.1 and her parents have been examined as P.Ws.2 & 3 and that they were not cross-examined by the petitioner/accused so far.

5. Heard the learned counsel on either side and perused the materials available on record.

6. The facts are not in dispute. Though there had been serious laches on the part of the petitioner, admittedly, the petitioner has not cross-examined the witnesses P.W.1 to 3 even once and therefore, this Court is of the opinion that one opportunity must be granted to the petitioner for cross-examining the witnesses of a course, with a rider, in order to prove his innocence.

7. In view of the above, the impugned dismissal order dated 14.11.2025 passed by the Special Court for Exclusive Trial of POCSO Act cases, Chennai in Crl.MP.No.1595 of 2025 in Spl.SC.No.96 of 2021 is set aside, on condition that the petitioner shall deposit a sum of Rs.9,000/- to the credit of Spl.SC.No.96 of 2021 within a period of two weeks from the date of receipt of a copy of this order. On such deposit being made, the

4/6



Crl.O.P.No.34032 of 2025

learned trial Judge shall fix a date and recall the witnesses P.W.1 to P.W.3 for cross-examination. If the petitioner fails to deposit the aforementioned amount within the prescribed period, he will lose the chance of cross-examination. It is made clear that the petitioner shall cross-examine the witnesses P.W.1 to P.W.3 on the date fixed, without seeking further adjournment, failing which, the petitioner will lose the opportunity of cross-examination.

8. With the above directions and observation, this criminal original petition stands allowed. Consequently, the connected miscellaneous petition is closed.

15.12.2025

skt

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To

1. The Special Judge for Exclusive Trial of POCSO Act cases, Chennai.
2. The Inspector of Police, W-7, All Women Police Station, Anna Nagar, Chennai.
3. The Public Prosecutor, High Court of Madras.

5/6



WEB COPY



CrI.O.P.No.34032 of 2025

A.D.JAGADISH CHANDIRA, J.

skt

CrI.O.P.No.34032 of 2025
and
CrI.MP.No.23772 of 2025

15.12.2025