



Crl.OP.No.33948 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2025

CORAM:

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

Crl.OP.No.33948 of 2025

and

Crl.MP.No.23724 of 2025

Vasanth

...Petitioner

Vs.

State of Tamilnadu Rep. by,
The Inspector of Police,
Namagiripet, Namakkal.
Crime No.366 of 2019.

...Respondent

Criminal Original Petition filed under Section 528 of BNSS, 2023 to allow the above criminal original petition by setting aside the order dated 16.10.2025 passed in MP.No.2 of 2024 in Spl.CC.No.43 of 2020 on the file of the learned Sessions Judge, Fast Track Mahila Court, Namakkal.

For Petitioner : Mr.K.Govi Ganesan

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

ORDER

This criminal original petition has been filed seeking quashment of the order dated 16.10.2025 passed in MP.No.2 of 2024 in Spl.CC.No.43 of 2020



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on the file of the learned Sessions Judge, Fast Track Mahila Court,
Namakkal.

2. The case of the petitioner is that he is an accused facing trial in Spl.CC.No.43 of 2020 for the offences under Sections 366(A) and 312 of IPC and Sections 6, 5(l) and 5(j)(ii) of the POCSO Act, 2012 and he filed a petition under Section 311 of Cr.P.C. in MP.No.2 of 2024 seeking to recall P.W.1 for further cross-examination. However, the trial court, vide impugned order dated 16.10.2025, dismissed the said petition on the ground that the same has been filed only to drag on the proceedings. Challenging the same, the present petition has been filed.

3. Learned counsel for the petitioner submitted that the petitioner has certain valid questions to be put to P.W.1 and certain contradictions in the deposition of PW1 were not elicited at the earlier instance and hence, the petitioner has filed the present petition under Section 311 of Cr.P.C., seeking to recall PW1 for cross-examination, as the same is absolutely necessary, in order to enable the trial court to arrive at a just and reasonable decision. However, the trial Court, without considering any of the above said facts,



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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 PW1 for further cross-examination, he would be put to grave hardship. Hence, he prayed to set aside the impugned order dated 16.10.2025.

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. Accordingly, 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 further submitted that the case now stands posted for defence side evidence and at this stage, recalling PW1 for cross-examination would not be appropriate. Accordingly, he prayed for dismissal of this petition.

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



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6. The facts are not in dispute. On a perusal of the order impugned, it is evident that the victim girl/PW.1 was examined in chief on 09.02.2021 and on the same day, she had been cross-examined in detail. In such circumstances, after a lapse of about three years from the date of cross-examination of the victim girl, the petitioner filed the present recall petition under Section 311 of Cr.P.C stating that, proper cross-examination could not be done at the relevant point of time and hence, sought allowing the petition under Section 311 of Cr.P.C. in order to prove his innocence.

7. It is not the case of even the petitioner that PW1 was not at all examined. When PW1 was cross-examined on the day she was examined in chief, it is beyond the ken of this Court as to what prevented the petitioner from eliciting the contradictions which he wants to do now on the day he cross-examined her for the first time in detail. Superadded, Section 33(5) of the POCSO Act also stares at the face of the trial Judge.

8. In view of the above, this Court is of the view that the trial court had rightly dismissed the recall petition filed by the petitioner and hence, no interference is warranted in the impugned dismissal order.



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9. For the reasons aforesaid, this criminal original petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

11.12.2025

skt

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To:

1. The Sessions Judge, Fast Track Mahila Court,
Namakkal.

2. The Inspector of Police,
Namagiripet, Namakkal.

3. The Public Prosecutor,
Madras High Court.



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