



Crl.O.P.(MD)No.1544 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.01.2025

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.1544 of 2025

and

Crl.M.P(MD) No.1042 of 2025

Thomas Arputha Ragasiyam

.. Petitioner

Vs.

The Inspector of Police
Soorangudi Police Station
Thoothukudi District

.. Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS,
to call for the records in M.P.No.1 of 2024 in Spl.S.C.No. 115/2024 on the
file of Learned Special Court for Exclusive Trial of Cases Under POCSO
Act, Thoothukudi dt. 24.12.2024 and set aside the same.

For Petitioner : Mr. S.Mani

For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed to call for the records in M.P.No.1 of 2024 in Spl.S.C.No. 115/2024 on the file of Special Court for Exclusive Trial of Cases Under POCSO Act, Thoothukudi dt. 24.12.2024 and set aside the same.

2. The contention put forth by the learned counsel appearing for the petitioner is that in this case the accused was arrested on 11.01.2024 and thereafter was remanded to judicial custody and further detained under Act. 14 of 1982. The petitioner filed an application before this Court in HCP(MD) No. 411 of 2024 and the same was allowed on 19.08.2024. Thereafter the petitioner has filed an application for bail before the trial Court in Cr.M.P. No. 859 of 2024 and the same was dismissed on 29.08.2024 and thereafter bail application was filed before this Court in Crl.O.P(MD)No. 15848 of 2024 and the same was dismissed on 20.09.2024 with a direction to dispose of the case within a period of four months. The trial Court has issued summons to L.W.1 to LW.3 on several hearing dates prior to 26.11.2024. Suddenly on 26.11.2024 witnesses were produced and the case was adjourned to 02.12.2024. The petitioner has



just completed 18 years and 20 days at the time of remand and he was a juvenile. In all aspects unable to know the seriousness of offence and unable to communicate the same to the parents or the counsel about the status of the case. The petitioner's father is a contract labour for sea fishing and he will be almost in the sea for everyday and only on 05.12.2024 he came to shore and he had come to know that in his son's case trial commenced on 26.11.2024. In the meanwhile the other witnesses namely P.W.3 to 5 were examined on 02.12.2024. Thereafter the father of petitioner made arrangement and paid the fees to the counsel and thereafter petition has been filed under Section 311 of Cr.P.C.

3. The learned Additional Public Prosecutor submitted that in this case the petitioner was effectively defended by his counsel when he was detained under Act 14 of 1982, and he has also filed an application for bail before the lower court as well as before this Court but he failed to cross examine the witnesses when they were examined in chief. He fairly submitted that prior to 26.11.2024 on four or five occasion summons have been issued to the witnesses but witnesses have not been produced and it does not mean that the petitioner has not cross examined the witnesses then and there. He further submitted that the petitioner is a Juvenile and he



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is aged about 18 years, and his father is a fishermen. He further submitted that cross examination of the witness is only beneficial for the trial Court to arrive at a just decision

4. At this juncture, the learned counsel appearing for the petitioners submitted that the case is posted to 07.02.2025 and he is ready to cross examine the witnesses without any further delay and within the time stipulated as fixed by the trial Court.

5. It is seen that the case is posted to 07.02.2025 for examination of further witnesses.. In view of the same, all the witnesses gains significance and cross examination of the witness is very much necessary especially in the cases of capital punishment.

6. In view of the same, this Criminal Original Petition is allowed and the impugned order passed by the learned Sessions Judge, Special Court for POCSO Act Cases is set aside.

7. The witnesses to be produced by the respondent police immediately after the next hearing date which is fixed by the trial Court.



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The trial Court shall fix the date for recall and cross examination of P.W.1 to P.W.5 by drawing a schedule and such process to be completed within a period of two weeks from 07.02.2025. Consequently connected miscellaneous petition stands closed.

28.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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Note: Issue order copy on 30.01.2025

To

1. The Special Court for Exclusive Trial of Cases Under POCSO Act,
Thoothukudi
2. The Inspector of Police
Soorangudi Police Station
Thoothukudi District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR,J.

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