



Crl.O.P(MD)No.4264 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

Crl.O.P(MD)No.4264 of 2025

Padmanathan
(confined at Dindigul District Prison)

... Petitioner

Vs

The State of Tamilnadu,
Rep by the Inspector of Police,
All Women Police Station,
Nilakottai,
Dindigul District.
Crime No.7/2022.

... Respondent

PRAYER: Criminal Original petitions have been filed under Section 528 of BNSS to call for the records in Crl MP No.1102 of 2023 in Spl.S.C.No.150 of 2023 on the file of the Special Court for Exclusive Trial of POCSO Act, Dindigul, dated 23.05.2024 and set aside the same.

For Petitioner : Mr.S.Muniyandi,

For Respondent : Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)



Crl.O.P(MD)No.4264 of 2025

ORDER

WEB COPY

This Criminal Original Petition has been filed seeking to set aside the order passed in Crl MP No.1102 of 2023 in Spl.S.C.No.150 of 2023 by the Special Court for Exclusive Trial of POCSO Act, Dindigul, dated 23.05.2024.

2.The learned Counsel for the petitioner would submit that the petitioner is the accused in the said case and already in this case P.W.1 to P.W.11 were examined. During examination of the witnesses, P.W.1 and P.W.2 were not cross examined, thereby, the petitioner filed a petition to recall the witness P.W.1 and P.W.2 and the same was allowed on condition that the petitioner has to pay a sum of Rs.2,000/- to P.W.1 and a sum of Rs.2,500/- to P.W.2 within a period of three days, failing which, the petitioner will lose his right to cross examine the said witnesses. Due to poverty, the petitioner was unable to pay the said amount within three days and now ready to pay the said money and thereby, the order passed by the trial Court is liable to be set aside.

3.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that already ample opportunity was



CrI.O.P(MD)No.4264 of 2025

given to the petitioner to cross examine the witnesses. But he failed to cross examine the witnesses. However, the trial Court in order to give a fair chance to the petitioner, allowed the petition with the above said condition but he has not paid the said amount, hence this petition is liable to be dismissed.

4.Heard both sides and perused the records.

5.According to the petitioner, he is the accused in this case and already the witnesses P.W.1 to P.W.11 were examined and among those witnesses, P.W.1 and P.W.2 were not cross examined and therefore, he filed a petition before the trial Court and the same was allowed with a condition that the petitioner has to pay a sum of Rs.2,000/- to P.W.1 and a sum of Rs.2,500/- to P.W.2. Since the time is too short and due to poverty, the petitioner was unable to pay the said amount. This Court perused the order of the trial Court and granted only three days for payment and the same is not sufficient to pay the said amount. The trial Court ought not to have passed the conditional order that the petitioner will lose his right of cross examination, on failure to pay the cost.



Crl.O.P(MD)No.4264 of 2025

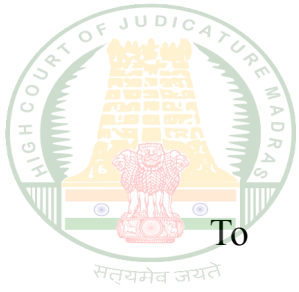
6.In this petition, the petitioner has raised the ground that due to poverty, he was unable to mobilise fund within the short time and now, the petitioner is ready to pay the amount as fixed by the trial Court. Therefore, the order passed by the trial Court is liable to be set aside.

7.Therefore, the petitioner is directed to deposit the above said amount within a period of fifteen days from the date of this order and on such deposit, the trial Court shall issue summons to the witnesses and the petitioner has to cross examine the said witnesses on the same day.

8.With the above direction, this criminal original petition is allowed.

07.03.2025

Internet :Yes
Index :Yes/No
NCC :Yes/No
LR



Crl.O.P(MD)No.4264 of 2025

To

WEB COPY

1.The Special Court for Exclusive Trial of POCSO Act,
Dindigul,

2.The State of Tamilnadu,
Rep by the Inspector of Police,
All Women Police Station,
Nilakottai,
Dindigul District.
Crime No.7/2022.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P(MD)No.4264 of 2025

P. DHANABAL, J.

LR

Crl.O.P(MD)No.4264 of 2025

07.03.2025