



CRL OP(MD)No.14656 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 16.10.2025

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CRL OP(MD). No.14656 of 2025

Sudalai Mani

... Petitioner

Vs

The State of Tamil Nadu,
Rep. by the Inspector of Police,
All Women Police Station,
Nanguneri, Tirunelveli District.
(Crime No.3 of 2021)

... Respondent

PRAYER :- Criminal Original Petition is filed under Section 528 of BNSS, to call for the records and set aside the impugned order dated 21.08.2023 in Crl.M.P.No.2185 of 2023 in Spl.C.C.No.29 of 2022 of the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli.

For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl.side)



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ORDER

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The petitioner seeks to set aside the order dated 21.08.2023 in CrI.M.P.No.2185 of 2023 in Spl.C.C.No.29 of 2022, on the file of the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli, dismissing the petitioner's application for recall of P.W1, the victim girl.

2.The petitioner is facing trial for the offences under Sections 4 r/w 3(a) of POCSO Act and 506(ii) of IPC. The prosecution had examined P.W1 to P.W3 and none of the witnesses were cross examined. The petitioner sought for recall of all the witnesses. By the impugned order, the learned Sessions Judge had permitted cross-examination of P.W 2 and P.W3 and dismissed the petition with regard to recall of P.W1, the victim girl, citing Section 33(5) of the POCSO Act.

3.The learned counsel for the petitioner would submit that so far, only three witnesses were examined by the prosecution; that the prosecution had not closed its evidence; that there are 15 more witnesses yet to be examined by the prosecution; that the recall of P.W1 would not



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delay the trial; and that if the petitioner is denied the right to cross examine, his right to a fair trial would be violated.

4.The learned Additional Public Prosecutor confirms the fact that only three witnesses have been examined so far; that the case has now transferred to IV Additional Mahila Court and that the learned Sessions Judge was justified in dismissing the petition, since the victim cannot be called repeatedly to testify in the Court.

5.It is no doubt true that a victim cannot be called to testify repeatedly in view of Section 33(5) of POCSO Act. In this case, the victim was examined once and thereafter was not called for cross-examination. The petitioner has the right to cross-examine the witness. Though the petitioner ought to have cross -examined the victim girl on the same day, this Court is of the view that one more opportunity can be given to cross examine the witness, especially since the prosecution has examined only three witnesses so far and if the petitioner is permitted to cross examine, no delay would be caused to the trial. Accordingly, the impugned order is set aside with the following directions:



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(i) The petitioner shall cross-examine P.W1 on the same day fixed by the learned Sessions Judge on payment of Rs.5,000/- to the victim girl. The petitioner shall further deposit a sum of Rs.2,500/- to the District Legal Service Authority, Tirunelveli.

(ii) If the petitioner fails to comply with the above direction, the order passed by this Court shall stand vacated without further reference to this Court.

6. With the above direction, this Criminal Original Petition is disposed of.

16.10.2025

Index :Yes/No
Internet :Yes/No
NCC :Yes/No
cp

To

1. The learned Sessions Judge,
Special Court for POCSO Act Cases,
Tirunelveli.



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2. The Inspector of Police,
All Women Police Station,
Nanguneri, Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN,J

CP

ORDER IN
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Date : 16.10.2025