



Crl.O.P.(MD)No.16589 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **04.12.2025**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

Crl.O.P.(MD)No.16589 of 2024

and

C.M.P.(MD)No.10441 of 2024

Vasantharaj

... Petitioner

Vs.

The Inspector of Police,
GRP Police Station,
Dindigul.
(Crime No.30 of 2023)

... Respondent

PRAYER : Petition filed under Section 528 of BNSS, 2023 to set aside the order passed in Crl.M.P.No.1132 of 2024 in Spl.S.C.No.6 of 2024 dated 02.09.2024 pending on the file of the POCSO Court, Dindigul.

For Petitioner : Mr.C.M.Arumugam

For Respondent : Mr.B.Thanga Aravindh

Government Advocate (Crl. Side)



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ORDER

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This petition has been filed to set aside the order passed in Crl.M.P.No. 1132 of 2024 in Spl.S.C.No.6 of 2024 dated 02.09.2024 pending on the file of the POCSO Court, Dindigul.

2. The petitioner herein is the sole accused in Crime No.30 of 2023 for the alleged offences under Sections 9(1), 9(m), and 10 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, in respect of which a charge sheet has been filed and taken on file as Spl.S.C. No.6 of 2024 before the POCSO Court, Dindigul. The petitioner had filed an application under Section 311 of Cr.P.C., to recall PW1 to PW3 for the purpose of further cross examination. However, the said petition was dismissed without considering the compelling necessity urged on behalf of the petitioner and hence, the petitioner filed this petition.

3. The learned counsel appearing for the petitioner submitted that PW1 to PW3 including the victim are all North-Indians, who are not conversant with Tamil and who deposed their evidence only in Hindi, that too in a virtual mode and hence, for the purpose of cross examination, the petition under Section 311 of Cr.P.C., was filed. He further submitted that the petitioner's counsel was not



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given an opportunity of appointing a proper interpreter to translate the evidence of the witnesses from Hindi to Tamil and vice versa, in terms of Rule 5(3) of the POCSO Rules 2020. Instead, the Court had appointed one Senior Bailiff, namely, Mr.Muruganantham, as a Translator. However, the said translator did not possess the requisite qualifications for translation and failed to produce any certificate in this regard when the witnesses were cross-examined on an earlier occasion. Therefore, there arose a necessity to re-(cross)-examine the witnesses afresh with the assistance of a properly qualified translator in terms of Rule 5(3) of the POCSO Rules, 2020, leading to the filing of the petition under Section 311 of the Cr.P.C. However, without considering the merits of the application and without proper application of mind, the learned Trial Court dismissed the same. In view of this, interference is warranted, and the petitioner urges that this petition be allowed.

4. Per contra, the learned Government Advocate appearing for the respondent submitted that there is no infirmity in the order impugned order and pressed for dismissal of this petition.

5. This Court is of the considered view that the right to a fair trial is always available to an accused person, particularly in cases where the witnesses



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are not Tamilians. The mandate of Rule 5(3) of the POCSO Rules, 2020 must be strictly followed by the Trial Court. In view of the same, the impugned order is set aside and this Court directs the Trial Court to permit the petitioner to recall PW1 to PW3 for cross-examination, for which Trial Court shall engage a Translator as mandated under Rule 5(3) of POCSO Rules, 2020, by permitting them to appear virtually. Accordingly, this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

04.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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TO:-

1. The Inspector of Police,
GRP Police Station,
Dindigul.
2. The POCSO Court, Dindigul.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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Order made in
Crl.O.P.(MD)No.16589 of 2024

Dated
04.12.2025