



Crl.O.P.(MD)No.1770 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2025

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.1770 of 2025

Kartheesan alias Karthik

... Petitioner

Vs.

State represented by
The Inspector of Police,
Kovilpatti AWPS,
(Crime No.10/2018)
Thoothukudi District.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the order dated 13.11.2024 in Cr.M.P.No.929 of 2024 in Spl.S.C.No.53 of 2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi and set aside the same and consequently, direct the Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi to allow the petitioner to cross examine respondent herein.

For Petitioners	: Mr.P.Subathra Devi for M/s.Polex Legal Solutions
For R1	: Mr.K.Sanjai Gandhi Government Advocate (Crl.side)



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ORDER

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The petitioner, who is the accused facing trial in various provisions of POCSO Act, has filed recall petition under Section 311 Cr.P.C., in Crl.M.P.No.929 of 2024. The trial Court by an order dated 13.11.2024 dismissed the same. Against the said order, the present Original Petition is filed.

2.The contention of the petitioner is that the petitioner has filed petition to recall P.W.10 to P.W.12, P.W.14, P.W.17, P.W.18 and P.W.20 for cross examination. In this case, P.W.10 is the social welfare officer, who had conducted the initial enquiry with the victim girl and given a report under Ex.P7. P.W.11 is the Doctor, who had examined the victim girl and given the accident report under Ex.P8 and wound certificate Ex.P9. P.W.12, Doctor, who had given birth certificate of the victim girl under Ex.P11. P.W.14 is the Mahazar witness. P.W.17 is the nodal officer employed in Bharath Airtel. P.W.18, is the SI of Police attached to Kovilpatti A.W.P.S. Police Station, where the victim had come on 30.08.201 and lodged a complaint and the case was registered in Crime No.10 of 2018. P.W.20 is the nodal Officer employed in reliance jio, who had given some documents under Ex.P25-29.

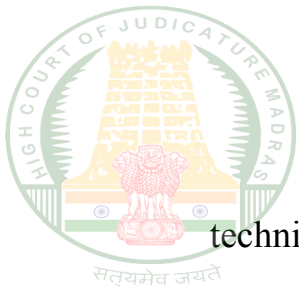


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3.The contention of the petitioner is that the petitioner examined other witnesses without any delay. As regards all these witnesses are concerned, at that time of examination of all these witnesses, he was in need of technical assistant, which was not unable to gather immediately and hence, the Doctor and the nodal officers could not be cross-examined immediately. The petitioner is facing trial of serious offences. In view of the same, the petitioner has to necessarily cross examine these witnesses to probablize his defense and by cross examining the witnesses, the petitioner can prove that victim girl had falsely framed the petitioner in the above case. The victim at the time of occurrence was few months short on her attaining majority. According to the petitioner, she had matured and hence, the birth certificate is also questionable. Hence, the cross examination of all these witnesses are necessary and seeks to allow this petition.

4.The learned Additional Public Prosecutor appearing for the respondent police submitted that in this case, the petitioner has sought to recall 7 witnesses. He submits that all these 7 witnesses are Doctors and nodal officers, except of one observation witness. The petitioner cites



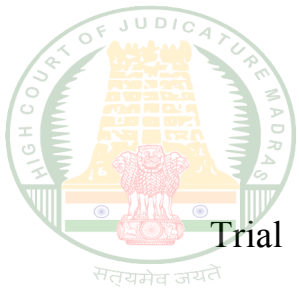
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technical reasons without any material, for such cross examination. He further submitted only by cross cross examining the witnesses, the truth or otherwise of the witnesses can be found as regards serious charges now faced by the petitioner. Hence, he fairly submits that the cross examination of the witnesses shall be permitted with costs.

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

6.This Court finds that the witnesses are the Doctors, who had examined the victim girl and given birth certificate, nodal officers and the Sub Inspector of police, who had registered the case. The petitioner is facing charges, where the prosecution is against the petitioner. The evidence would be complete only after the cross examination. The charges are also serious in nature. In this case, the trial is in progress.

7. In view of the above, this Court is inclined to grant permission to the petitioner to recall the witnesses. Accordingly, the order impugned in this petition dated 13.11.2024 in Cr.M.P.No.929 of 2024 in Spl.S.C.No.53 of 2019 on the file of the Special Court for Exclusive



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Trial of Cases under POCSO Act, Thoothukudi is set aside and this

Criminal Original Petition is **allowed**. The petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the Thoothukudi Advocate's Association and thereafter, produce the receipt for the same before the learned Special Court. On such production, the petitioner shall be permitted to cross examine the witnesses. The petitioner shall cross examine the witnesses, P.W.10 to P.W.12, P.W.14, P.W.17, P.W.18 and P.W.20 without fail on the day, when they are present. It is made clear that if the trial Court finds that the petitioner is adopting any dilatory tactics to protract the proceedings, coercive action shall be taken as against the petitioner. Consequently, connected miscellaneous petition is closed.

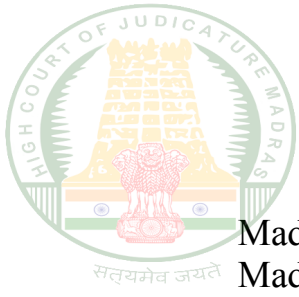
NCC : Yes / No
Index : Yes / No
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30.01.2025

To
1.The Special Court for Exclusive Trial of
Cases under POCSO Act,
Thoothukudi

2.The Inspector of Police,
Kovilpatti AWPS,
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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