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Crl. O.P. No.1083 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-01-2026

CORAM

THE HON'BLE MR JUSTICE A.D.JAGADISH CHANDIRA

Crl. O.P. No.1083 of 2026

Elumalai

..Petitioner

Vs

The State of Tamil Nadu represented by
The Inspector of Police,
Vaniyambadi Taluk Police Station.
Cr.No.841 of 2020.

..Respondent

Prayer: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita to call for the records and set aside the order passed by the District and Sessions Judge/Special Court for Exclusive Trial of POCSO Act Cases, Tirupattur in Crl.M.P.No.1650 of 2025 in Spl.S.C.No.98 of 2024 and enable the petitioner to cross examine PW-1 to PW-3 in this case.

For Petitioner : Mr.S.Sathish

For Respondent : Mr.S.Santhosh
Government Advocate (Criminal Side)



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ORDER

The present Criminal Original Petition has been filed seeking to set aside the order dated 18.11.2025 in Crl.M.P.No.1650 of 2025 in Spl.S.C.No.98 of 2024 passed by the learned District and Sessions Judge/Special Court for Exclusive Trial of POCSO Act Cases, Tirupattur and enable the petitioner to cross examine PW-1 to PW-3 in this case.

2. The brief facts of the case are as follows :-

2.1. The petitioner is an accused facing trial in Spl.S.C.No.98 of 2024 before the learned District & Sessions Judge, Tirupattur, for the offence punishable under Sections 354A & 354C of IPC, Section 67 of IT Act, and Sections 11(4) and 12 of the POCSO Act in Crime No.841 of 2020, on the file of the respondent Police.

2.2. In the said case, the petitioner/accused filed a petition in Crl.M.P.No.1650 of 2025 under 348 of BNSS or Section 311 Cr.P.C., seeking recall of the witnesses, PW-1 to PW-3. The learned District and Sessions Judge, finding that different reason has been stated by the petitioner in the re-call petition, dismissed the petition, vide order dated 18.11.2025. Aggrieved over the same, the present petition has been filed.



3. Learned counsel for the petitioner submitted that though there had been lapses on the part of the petitioner, if the petitioner is not permitted to re-call and cross-examine PW-1 to PW-3, he will be put to grave hardship. He further submitted that though there is a specific bar under Section 33(5) of the POCSO Act to call a child victim repeatedly to testify, as far as this case is concerned, the petitioner has not at all earlier cross-examined the witnesses, and further, the victim, who was a minor at the time of occurrence, is now, aged 23 years. Hence, he prays to set aside the order dated 18.11.2025.

4. The learned Government Advocate (Criminal Side) submitted that there are totally 13 witnesses and 7 witnesses have been examined so far and case now stands posted to 09.02.2026, for examination of remaining witnesses.

5. Having heard the learned counsel appearing on either side and perused the materials available on record, I find that the trial court had rightly rejected the petition since a different reason has been stated by the petitioner in the re-call petition. At the same time, this Court also finds that if a chance is not given to the petitioner to re-call the witnesses and cross examine them, the petitioner will be put to grave hardship because it will amount to a case of no defence. Therefore, this court is of the opinion that one chance can be given to the petitioner to re-call and cross-examine PW-1 to PW-3, subject to imposition



of conditions.

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6. Accordingly, the petitioner is directed to deposit an amount of Rs.6,000/- to the credit of Spl.S.C. No.98 of 2024, within a period of one week from the date of receipt of a copy of this order and on such deposit, the learned Trial Judge shall issue summons to PW-1 to PW-3 for their appearance on a particular date before the Court. It is made clear that the petitioner shall cross-examine PW-1 to PW-3 on the same day of their appearance or else he will lose the chance of further cross-examination. The Trial Court shall disburse Rs.2,000/- to each of the witnesses, viz., P.W.1 to P.W.3.

7. With the above directions, this criminal original petition stands disposed of.

22-01-2026

Neutral Citation: Yes/No
MRN



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To

1. The Inspector of Police,
Vaniyambadi Taluk Police Station.
Cr.No.841 of 2020.
2. The Public Prosecutor,
High Court of Madras.
3. The District and Sessions Judge/Special Court
for Exclusive Trial of POCSO Act Cases, Tirupattur.

Crl. O.P. No.1083 of 2





WEB COPY

Crl. O.P. No.1083 of 2



A.D.JAGADISH CHANDIRA, J.

MRN

Crl. O.P. No.1083 of 2026

22-01-2026