



WEB COPY

CRL OP No. 2286 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-02-2026

CORAM

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

**CRL OP No. 2286 of 2026
and CrI.M.P.No.1532 of 2026**

R.Akkim

..Petitioner

Vs

1. The State Rep. by Inspector of Police,
All Women Police Station Erode,
Erode District.
2. Xxxxx
(Name Changed to XXXXX after marriage)
W/o.XXXX,
D/o.XXXX,
Residing at No.XXX,
XXXX XXX Street,
Cr.No.24 of 2018.

..Respondents

Prayer: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records relating to CrI.MP.No.985 of 2025 in Spl.S.C.No.26 of 2021 on the file of the learned Sessions Judge, Fast Track Court at Erode, to set aside the order dated 24.11.2025 passed therein, consequently, permit recall of PW1 for limited cross-examination on material aspects.

For Petitioner : Mr.G.Aswath

For Respondent-1 : Mr.S.Santhosh,
Government Advocate (Criminal Side)



ORDER

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This Criminal Original Petition is filed to set aside the order dated 24.11.2025 passed in Crl.MP.No.985 of 2025 in Spl.S.C.No.26 of 2021 on the file of the learned Sessions Judge, Fast Track Court at Erode and consequently, permit the petitioner to recall P.W-1 for cross-examination on material aspects.

2. Learned counsel for the petitioner submitted that there was a consensual relationship between the petitioner and the victim. Subsequently, the petitioner also married the victim and the marriage has been registered. The petitioner had earlier approached this Court in Crl.O.P.No.19292 of 2025 to quash the proceedings in Spl.S.C.No.26 of 2021 on the file of the learned Sessions Judge, Fast Track Mahila Court, Erode, on the ground of compromise. This Court had dismissed the petition granting liberty to the petitioner to work out his remedy before the trial Court in the pending case in Spl.S.C.No.26 of 2021. Immediately after the dismissal of the petition, the petitioner filed an application to recall and examine the victim. However, the learned trial Judge, finding that the petition has been filed belatedly and that the child victim cannot be repeatedly called for, for deposing evidence as per Section 33(5) of the Protection of Children from Sexual Offences Act, 2012, dismissed the application. The petitioner, having been granted liberty in the quash petition,



had filed an application seeking to recall. He further submitted that the victim has now attained majority and that though the victim has not supported the case of the prosecution before the trial Court in her examination, the fact of marriage between the petitioner and the victim has to be elicited before the Court and hence, her evidence is necessary for arriving at a just decision.

3. The learned Government Advocate (Criminal Side) appearing for the first respondent submitted that the petitioner is the first accused. The learned trial Judge, finding that there had been a delay in filing the petition to recall and examine the victim and that the victim cannot be repeatedly called for evidence, had dismissed the application. On instructions from Ms.A.Kalaiezhil, WGr-I, Erode AWPS, he submitted that the victim is living with the petitioner and they have also begotten children. He further submitted that now, the case stands posted on 05.02.2026.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent and also perused the impugned order.

5. Though this Court does not find any infirmity in the order impugned, taking into consideration the fact that the petitioner is said to have



married the victim who had attained majority and they are living as husband and wife and also, they have begotten children through the wedlock, this Court is inclined to give one opportunity to the petitioner for cross-examine the witness.

6. In view of the above, the learned Sessions Judge, Fast Track Court at Erode, is directed to fix a date for appearance of P.W-1 and permit the petitioner to cross-examine her.

7. With the above direction, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

04-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
SRM

Note: Issue order copy on 04.02.2026



To

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1. The Sessions Judge,
Fast Track Court, Erode.
2. The Inspector of Police,
All Women Police Station Erode,
Erode District.
3. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

SRM

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