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CRL OP No. 6856 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 6856 of 2026

and

CrL.MP.No.4983 of 2026

1. W.Edwin
S/o.William,
243/4, T.H.Road,
Pungambedu,
Minjur-601 203,
Tiruvallur District.
2. V.Raja @ Rithasvaran
S/o.Venkatesan,
34, Lakshmipuram,
1st Colony,
Minjur-601 203,
Tiruvallur District.
3. S.Hari @ Haridoss
S/o.Subramani,
30, TVK Street,
Pattamandri,
Vallur-600 120,
Ponneri Taluk,
Tiruvallur District.

..Petitioner(s)

Vs

The State Rep by,
The Inspector of Police,
Ponneri All Women Police Station,
Tiruvallur District.
Cr.No.9/2015.

..Respondent(s)



PRAYER: This criminal original petition filed under Section 528 of BNS to set aside the order dated 13.02.2026 made in Crl.M.P.No.10/2025 in Spl.S.C.No.10/2017 on the file of the Learned Sessions Court, Special Court for Exclusive Trial of Cases under POCSO Act, Tiruvallur by allowing this Criminal Original Petition.

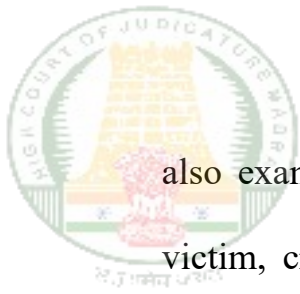
For Petitioner(s): Mr.R.Darshan

For Respondent(s): Mr.LEONARD ARUL JOSEPH SELVAM
ADDITIONAL PUBLIC PROSECUTOR

ORDER

The petitioners, who are A1, A4 and A5, filed a petition in Crl.MP.No.10 of 2025 under Section 311 Cr.P.C to recall PW1 victim. The learned Special Judge by order dated 13.02.2026 dismissed the same, against which, the present petition.

2.The contention of the learned counsel for the petitioners is that in this case, the petitioners have been falsely implicated and their identity has been disputed. Further submitted that in this case, the victim, who was examined as PW1, though had deposed in chief, thereafter, she refused to give answers in the cross examination and she is not interested in continuing with the case and left the court. On the same day, PW2 mother and PW3 uncle of the victim were



also examined and cross examined in detail. Due to non co-operation of the victim, cross examination could not be done and no fault of the petitioners.

Hence, he had also relied upon the judgments of this Court in the case of *Murugesan Vs. State* reported in *2025-1-LW (Crl)233* and in the case of *S.Ganeshan Vs. State rep.by The Inspector of Police, Periyanaikkanpalayam Police Station, Coimbatore*.

3.The learned Additional Public Prosecutor had filed a counter and submitted that the victim, in this case, was travelling with her uncle PW3, at that time, the petitioners had forcibly kidnapped and taken her to a remote dark place and forcibly committed penetrative sexual assault on the victim girl and the victim was traumatised and she took several months to come to normalcy. Thereafter, even she had identified the accused in the Test Identification Parade and also in her evidence. At the time of her chief examination, she broke down emotionally and as crying endlessly and the chief examination itself was completed with great difficulty. . At that point of time, she was not in a position to further depose. PW2 & PW3 the mother and uncle of the victim were examined and cross examined. The incident had taken 12 years back. After the incident, PW1 victim continued her education and completed. Now, she is married and settled with her family and having a child and employed in HR department, leading a decent life. The very thought of the case is



psychologically disturbing her and she has refused to speak about the incident any further. When the respondent police had gone to enquire about her availability for cross examination or the possibility of conducting the same through virtual mode, the victim's mother reacted with anger, forced the police to leave and informed them not to disturb their peaceful life. Hence, if any further course is insisted upon, the victim might take extreme steps and therefore, the contention of the petitioner is strongly opposed.

4.Considering the submissions made and on perusal of the materials available on record, it is seen that in this case, the act of the petitioners is not a normal one. The victim, having gained confidence, had lodged the complaint, thereafter, identified the accused during the Test Identification Parade and in her evidence. The act of the petitioners is not that easy to forget and she had been continuously suffering from the traumatic experience. The petitioners now contended that the victim had not cooperated for cross examination. However, the victim has reiterated that she is not interested to subject herself to any further examination before the trial Court and even the option of conducting cross examination by virtual mode has been rejected. Section 33(5) of POCSO Act contemplates that the victim should not be repeatedly called to court to testify for the reason victim should not be reminded of the traumatic incident again and again.



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In view of the above, this Court finds that the trauma and objections of the victim cannot be brushed aside. Hence, this Court is not inclined to allow the petition. Accordingly, the criminal original petition is dismissed. Consequently, connected miscellaneous petition is also closed.

15-04-2026

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

To
1. The Inspector of Police,
Ponneri All Women Police Station,
Tiruvallur District.Cr.No.9/2015.

2.The Public Prosecutor
High Court, Madras.



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M.NIRMAL KUMAR, J.

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