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CRL OP No. 7472 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 7472 of 2026

Purushothaman

..Petitioner(s)

Vs

State Rep.by, The Inspector of Police,
Vellore All Women Police Station,
Vellore District.
Cr.No.19/2025.

..Respondent(s)

Criminal Original Petition is filed under Section 528 of B.N.S.S., to set aside the order passed in Crl.M.P.No.41 of 2026 in Spl.S.C.No.146 of 2026 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act - 2012, Vellore, Vellore District dated 20.02.2026.

For Petitioner(s): Mr.T.Saravanan

For Respondent(s): Mr.Leonard Arul Joseph Selvam,
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to quash the order passed by the Special Court for Exclusive Trial of Cases under POCSO Act - 2012, Vellore, Vellore District, in Crl.M.P.No.41 of 2026 in Spl.S.C.No.146 of 2026 dated 20.02.2026.



2. The petitioner/accused, who is facing trial in Spl.S.C.No.146 of 2026 for the offences under Sections 9(m) and 10 of the POCSO Act, had earlier filed a petition seeking recall of P.W.2/victim girl. The said petition came to be dismissed by the learned Special Judge for Exclusive Trial of Cases under POCSO Act, Vellore, in Crl.M.P.No.41 of 2026, dated 20.02.2026.

3. The contention of the petitioner is that the chief examination of P.W.1 to P.W.3 was conducted on 12.01.2026. P.W.1 is the mother of the victim, P.W.2 is the victim and P.W.3 is the father of the victim. On the said date, the learned counsel for the petitioner was engaged before another Court and therefore, could not cross-examine P.W.1 to P.W.3. Thereafter, the petitioner filed a petition in Crl.M.P.No.41 of 2026 seeking recall of the witnesses. The learned trial Judge, by an order dated 20.02.2026, considered the request of the petitioner and found that the reason assigned to be acceptable in part. Accordingly, the trial Court permitted to recall of P.W.1 and P.W.3. However, insofar as P.W.2(victim girl) is concerned, the trial Court declined the request by placing reliance on Section 33(5) of the POCSO Act, which mandates that the child should not be repeatedly called to testify, so as to avoid further trauma. The further contention of the petitioner is that denial of an opportunity to cross-examine P.W.2 would seriously prejudice the defence of the accused and violate the principles of fair trial. The petitioner has been



falsely implicated and effective cross examination of the victim is essential for establishing his defence.

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4. The learned Additional Public Prosecutor appearing for the respondent submitted that the trial Court has rightly exercised its discretion by balancing the rights of the accused and the statutory protection granted to the victim under the POCSO Act. He further submitted that repeated recall of the victim is impermissible and would defeat the object of the special enactment.

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

6. It is not in dispute that the petitioner was given an opportunity to cross-examine the witnesses at the time of chief examination. The reason assigned for non-cross examination is that the counsel was engaged in another Court. The trial Court, taking a lenient view, has already permitted recall of P.W.1 and P.W.3. Insofar as P.W.2, the victim girl is concerned, the provisions of Section 35(3) of the POCSO Act, clearly stipulate that the child shall not be called repeatedly to testify. The petitioner has not made out any exceptional circumstance warranting recall of the victim for cross examination. Mere inconvenience of the counsel cannot be a ground to override the statutory protection available to the child witness. Further, the petitioner is not left



remediless. He can very well establish his defence by cross-examining other witnesses and by adducing defence evidence.

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7. In view of the above, this Court finds no illegality or infirmity in the order passed by the trial Court warranting interference under the inherent jurisdiction.

8. Accordingly, this Criminal Original Petition stands dismissed.

25-03-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

VKR

To

1.The Special Judge for Exclusive Trial of Cases under POCSO Act - 2012,
Vellore.

2.The Inspector of Police,
Vellore All Women Police Station,
Vellore District.

3.The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR, J.

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