



WEB COPY

CRL OP No. 10205 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-04-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

**CRL OP No. 10205 of 2026
and CRL.MP.No.7282 of 2026**

Yokeshwaran

..Petitioner(s)

Vs

State represented by
Inspector of Police
Vandavasi South Police Station,
Vandavasi.
Crime No.261 of 2023

..Respondent(s)

To call for the records, set aside the order dated 04-03-2026 passed in Crl M.P. No.1332 of 2025 in Spl S.C. No.1 of 2024 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Tiruvannamalai, and pass such other order or orders as this Honorable Court may deem fit and proper, thus rendering justice.

For Petitioner(s): Mr.R.Vijayakumar

For Respondent(s): M/S. LEONARD ARUL JOSEPH SELVAM
ADDITIONAL PP

ORDER

The petitioner/accused, who is facing trial in Spl S.C. No.1 of 2024, has filed the present petition challenging the order dated 04.03.2026 passed by the Trial Court in Crl M.P. No.1332 of 2025, whereby the petition filed by the prosecution under Section 311 Cr.P.C. was allowed, permitting examination of LW13 and recall and further examine of PWs.2, 3, 23 and 24.



2. The learned counsel for the petitioner submitted that the case has been projected as if the petitioner and the deceased were in love with each other. The petitioner took the victim to an isolated place behind a bush, committed penetrative sexual assault, and thereafter committed murder. The petitioner was arrested in this case on 24.09.2023 and he is in prison since then.

3. The learned counsel further submitted that the petitioner's earlier bail applications dismissed and while rejecting the last bail application in the year 2025, this Court directed the Trial Court to complete the trial within two months. However, even after more than a year, the trial not concluded.

4. The learned counsel further submitted that examining of LW13 is not required since PW12 already deposed to the same facts. PWs.2 and 3, namely the mother and grandmother of the deceased, both examined and cross-examined in detail. PW2 gives contradictory statements to her earlier versions under Sections 161 and 164 Cr.P.C. It is also contended that the victim lastly spoken to the petitioner using grandmother's (PW3) mobile phone and the SIM card in the said mobile phone obtained in the name of PW16, but he has not supported the prosecution case. Further, without production of the mobile phone, no necessity to further examine PW23, the Nodal Officer, and such examination will serve no purpose. Hence, the petitioner strongly opposed the Trial Court's order.



5. It is contended that the prosecution evidence completed and the case reached the stage of final arguments. The defence advanced his arguments highlighting the infirmity in the chain of circumstantial evidence. At this stage, the prosecution filed the present petition under Section 311 Cr.P.C., to fill up the lacunae in its case, which cannot be permitted.

6. Per contra, the learned Additional Public Prosecutor submitted that there was change of prosecutor, who on perusal of file found certain material aspects not elicited earlier. Hence, the present Public Prosecutor finding that it the case of circumstantial evidence, which requires prosecution to establish and prove each link in the chain, including the “last seen theory” has filed the petition to complete the chain by further examination of witnesses.

7. It is submitted that PW12 and PW13 are material witnesses who had seen the accused and the deceased together near the place of occurrence, and their evidence is crucial to establish the last seen theory. It is further submitted that PWs.2 and 3, illiterate villagers, not properly deposed certain material facts leading to ambiguity, which has to be clarified.

8. With regard to PW23, the Nodal Officer, it is submitted that his further examination is necessary to prove the Call Detail Records, including call



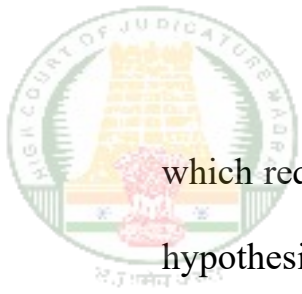
frequency, duration and tower location, which are very much relevant to establish contact between the accused and the deceased. It is also submitted that PW24, the Investigating Officer, needs to be recalled in view of the further evidence sought to be adduced.

9. This Court carefully considered the submissions made on either side and perused the materials available on record.

10. It is well settled that under Section 311 Cr.P.C., the Court has wide discretionary power to summon, recall or re-examine any witnesses at any stage of the proceedings, if such evidence appears to be essential for a just decision of the case. The paramount consideration is to ensure that the truth is brought on record and justice is done.

11. In the present case, the Trial Court exercised its discretion by allowing the prosecution to examine LW13 and recall PWs.2, 3, 23, and 24, with a view to complete the chain of circumstantial evidence. The petitioner will have full opportunity to cross-examine the said witnesses.

12. Though by recording and enquiring witnesses, some delay occurred, such a delay, by itself, cannot be a ground to deny the prosecution to adduce relevant evidence, especially when the case is based on circumstantial evidence,



which requires each link in the chain to be proved, without leading to any other hypothesis. Further, merely because the case has reached the stage of arguments, it cannot be held that recall of witness is impermissible, if the Court is satisfied that such a recall is necessary to arrive just decision, then the same has to be permitted. Hence, this Court finds no illegality or infirmity in the order passed by the Trial Court warranting interference.

13. Accordingly, the Criminal Revision Petition is dismissed. It is made clear that the observations made in this order are only to the limited purpose of deciding the present petition, the Trial Court to decide the case on its own merits and in accordance with law. Consequently, connected miscellaneous petition is closed.

22-04-2026

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

To

1. The Special Court for Exclusive Trial of Cases under POCSO Act, Tiruvannamalai
2. The Inspector of Police
Vandavasi South Police Station,
Vandavasi. Crime No.261 of 2023
3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

PVS

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