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Crl. O.P. No. 9918 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2026

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl. O.P. No. 9918 of 2026

and

Crl. M.P. No. 7089 of 2026

Ilayaraja

... Petitioner

vs.

State Represented by
The Inspector of Police,
Polur All Women Police Station.
Crime No.49 of 2025

... Respondent

Criminal Original Petition is filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita, 2023, to call for the records and set aside the
order dated 16.03.2026 made in Crl.M.P.No.312 of 2026 in Spl.S.C.No.279
of 2025 on the file of the Special Court for Exclusive Trial of Cases under
POCSO Act, Thiruvannamalai and consequently, permit the petitioner to
cross-examine PW2/Victim's mother.

For Petitioner : Mr. R.P. Ruban Chackravarthi

For Respondent : Mr. Leonard Arul Joseph Selvam,
Additional Public Prosecutor



ORDER

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This Criminal Original Petition has been filed to call for the records and set aside the order dated 16.03.2026 made in Crl.M.P.No.312 of 2026 in Spl.S.C.No.279 of 2025 on the file of the Special Court for Exclusive Trial of Cases under the POCSO Act, Thiruvannamalai and consequently to permit the petitioner to cross-examine PW2 / Victim's mother.

2. The petitioner / accused, who is facing trial in Spl.S.C.No.279 of 2025 under the POCSO Act, had filed a petition in Crl.M.P.No.312 of 2026 seeking to recall PW2, the mother of the victim, for the purpose of cross-examination. However, the said petition was dismissed by order dated 16.03.2026.

3. The contention of the petitioner is that on 13.02.2026, he fell ill and was therefore unable to attend Court and instruct his counsel to cross-examine PW2. PW2 is none other than the mother of the victim. The petitioner submits that in order to effectively prove his case, it is necessary to cross-examine PW2. He further submitted that there was a love affair between the petitioner and the victim, which has been suppressed and that a



CrI. O.P. No. 9918 of 2026

false complaint has been lodged. These facts, according to him, must necessarily be put to PW2, who is the defacto complainant in this case.
(27.01.2026)

4. The learned Additional Public Prosecutor for the respondent submitted that as regards PW1, the witness had been cross-examined on the same day. PW2 is the mother of the victim.

5. Considering the submissions and upon perusal of the materials on record, it is seen that the petitioner had cross-examined the victim on the same day without any delay. However, with regard to PW2, due to sudden illness, he was unable to give instructions and no cross-examination was conducted. The petitioner is now ready to proceed.

6. It is further seen that the trial Court, by citing Section 35(2) of the POCSO Act, held that the same would not be applicable to PW2, the mother of the victim and also relied on the case of *Vinothkumar v. State of Punjab*, which is not applicable, as it pertains to the Prevention of Corruption Act. Therefore, the said reasoning is not proper.



Crl. O.P. No. 9918 of 2026

7. In view of the same, this Court set aside the order dated 16.03.2026 made in Crl.M.P.No.312 of 2026 in Spl.S.C.No.279 of 2025 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Thiruvannamalai and directs the trial Court to recall PW2 and permit the petitioner to cross-examine her on the same day she appears. The petitioner shall pay a cost of Rs.2,000/- to the witness.

8. It is also submitted that the case has been posted for examination of LW5 and LW6 on 08.05.2026. On the same day, if possible, PW2 may also be summoned.

9. In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

21.04.2026

Neutral Citation: Yes/No
AT

To

1.The Special Court for Exclusive Trial of Cases under POCSO Act,
Thiruvannamalai.

2.The Inspector of Police,
Polur All Women Police Station.

3.The Public Prosecutor, High Court of Madras.

Page No.4 of 5



WEB COPY



Crl. O.P. No. 9918 of 2026

M.NIRMAL KUMAR, J.

AT

Crl. O.P. No. 9918 of 2026 and
Crl. M.P. No. 7089 of 2026

21.04.2026