



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-06-2026

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THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 11447 of 2026

AND

CRL MP NO. 8181 OF 2026

Balu @ Balraj

Petitioner

Vs

The State Rep By
The Inspector of Police
W26, AWPS,
Ashok Nagar, Chennai.

Respondent

PRAYER

This criminal original petition is preferred under section 528 of BNSS Act, 2023 seeking to call for the records in Crl.MP.No.464 of 2026 in Spl.SC.No.121 of 2021 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and set aside the impugned order dated 15.04.2026 passed in Crl.MP.No.464 of 2026 in Spl.SC.No.121 of 2021 on the file of the Sessions Judge, Special Court for Exclusive trial of cases under POCSO Act, Chennai or pass any or other such orders that this court may deem fit and proper under the facts and circumstances of the case and thus render justice.

For Petitioner: Mr.A.J.Mohamed Kassim

For Respondent: Mr.R.Rajasekaran
Counsel for Government of
Tamil Nadu (Criminal side)



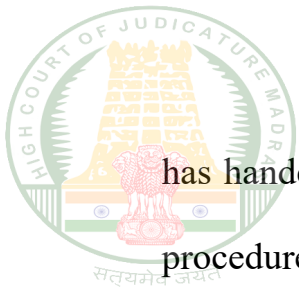
ORDER

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The petitioner accused who is facing trial for the alleged offences under section 6 read with section 5(j)(ii) of the POCSO Act and section 376(3) of IPC, challenging the order passed by the trial court in CrI.M.P.No.464 of 2026 in Spl.S.C.No.121 of 2021, dated 15.04.2026, has filed the instant petition.

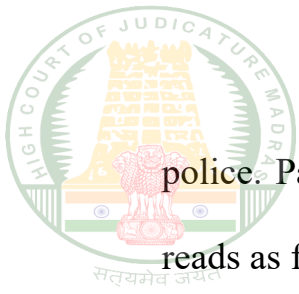
2.It is the contention of the learned counsel for the petitioner that the trial court has not followed the procedure while dismissing the abovesaid miscellaneous petition. It is submitted by the learned counsel for the petitioner that the wife of the petitioner was examined as D.W.1 on 25.03.2026 and the defence side documents were marked as Exs.D.1 to D.3. After the examination of P.W.11 through video conferencing on 28.01.2026 and the examination of D.W.1 on 25.03.2026, new material facts have been noticed with regard to the potency of the petitioner / accused and the DNA test report. These facts are essential and relevant to substantiate the defence but could not be brought on record earlier. Hence, it is necessary to recall P.W.10 for re-examination.

3.The learned Government Advocate (Criminal side) has strongly opposed this petition and submitted that P.W.10 was examined in chief on 09.01.2026 and was cross examined on the same day. The evidence of P.W.10 is that she has handed over the foetus to the Forensic Science Laboratory, deposited the FTA cards before the court after obtaining the blood samples from the victim child and accused and thereafter again, pursuant to the court order,



has handed over the FTA card to the forensic science laboratory. Hence all the procedures have been followed. Therefore, the learned Government Advocate (Criminal side) submitted that the trial court had considered the evidence of P.W.10 and the materials available and found that as per the orders of the investigating officer, PW.10 had handed over the preserved foetus to the forensic science laboratory and then produced the victim child before the doctor, witnessed the collection of blood samples from her and received the FTA card with blood sample and deposited the same before the court and after the order of the court, P.W.10 has handed over the FTA Cards with blood samples to the forensic science laboratory. The DNA test report dated 22.01.2021 has been produced. The DNA report confirms that the gender of the foetus is male and Mr.Balu @ Balraj, who is the petitioner herein is the biological father of the foetus. The DNA test report has been filed with annexures showing the STR locus tested and Genotype detected. Hence, it is submitted by the learned Government Advocate (Criminal side) that there is no ambiguity or any doubt in the report. The learned Government Advocate has further submitted that D.W.1 being the wife of the petitioner/accused, in order to save her husband, had deposed as if her husband is an impotent but the medical report confirms otherwise and therefore, the learned Government Advocate seeks for dismissal of the instant petition.

4.A counter affidavit, dated 08.06.2026 has been filed by the respondent



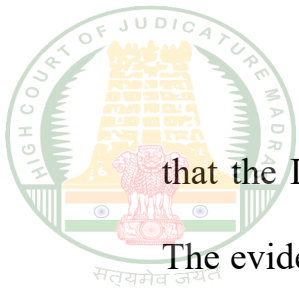
police. Paragraphs 9 and 10 of the counter affidavit are relevant and the same reads as follows:

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‘9.It is submitted that now the petitioner / accused filed this present petition seeking to call for the records in CrI.M.P.No.464 of 2026 in Spl.S.C.No.121 of 2021 on the file of Learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and set aside the impugned order dated 15.04.2026 passed in CrI.M.P.No.464 of 2026 in Spl.S.C.No.121 of 2021 on the file of the Learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai.

10.It is submitted that, as per the procedure and as per the orders of the Investigation Officer, P.W.10 / Tamilarasi had handed over the preserved fetus to the Forensic Science Laboratory on 01.09.2020 and then caused production of the victim child before the Doctor, witnesses the collection of blood sample from her, received the FTA Card with blood sample, deposited the same before the Court and then as per the orders of the court handed over the FTA Cards with blood samples to Forensic Science Laboratory. In the meantime, the respondent police received the DNA Report from the Forensic Science Laboratory and it will confirmed that the accused is the 99.9 percentage father of the victim’s fetus. All witnesses are examined. Now pending for defence arguments. At this stage, the petitioner / accused, with the intention of delaying and protracting the trial proceedings, has filed the present petition. Therefore, the present petition has been filed solely as an attempt to postpone the conclusion of the trial and is devoid of merits.’

5.This court has considered the submissions made by both sides and has gone through the materials available on record. It is seen from the DNA report



that the DNA test report confirms the paternity of the petitioner to the foetus.

The evidence of P.W.10 is clear that P.W.10 as per the order of the investigating officer, had collected the preserved foetus in the Government Hospital and handed over the same to the Forensic science laboratory on the same day. She had collected the acknowledgement Ex.P.13. On 28.08.2020, the victim was taken to the hospital for DNA test, the same was conducted, the FTA cards with blood samples were handed over to the forensic science laboratory and the same has been marked as Ex.C.1 with acknowledgment. The court forwarding letter has been marked as Ex.C.2. Thus, it is seen that the chain of events have been clearly recorded. In view of the same, the contentions of the learned counsel for the petitioner do not merit consideration. Further, the case is now at the final stage of arguments of the petitioner herein. Hence, this court is not inclined to entertain the present criminal original petition and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08-06-2026

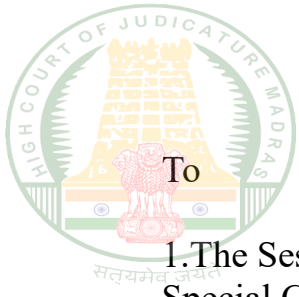
Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

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To

1. The Sessions Judge,
Special Court for Exclusive Trial of
Cases under POCSO Act,
Chennai.

2. The Inspector of Police
W26, AWPS,
Ashok Nagar, Chennai.

3. The Government Advocate
(Criminal side)
Madras High Court,
Chennai.



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