



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-01-2026

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THE HON'BLE MR.JUSTICE SUNDER MOHAN
CRL RC No. 1692 of 2025
AND
CRL MP NO. 17263 OF 2025

Jayabal,
S/o. Udayakumar,
No 92, Nadu Kotha Theru,
Thiruvavarur.

..Petitioner(s)

Vs

State of Tamil Nadu,
Rep. By The Inspector Of Police,
Thiruvavarur Town Police Station,
Thiruvavarur
Cr.No. 2105/2020

..Respondent(s)

PRAYER IN CRL RC No. 1692 of 2025

Criminal Revision Case filed under Sec.438 r/w 442 of B.N.S.S., 2023, to call for the entire records relating to the impugned order dated 03.07.2025 made in MP. No. 4 of 2025 in Spl. SC No 40 of 2021 on the file of the Sessions Judge, Fast Track Mahila Court, Thiruvavarur to set aside the same as illegal.

PRAYER IN CRL MP No. 17263 of 2025

Criminal Miscellaneous Petition filed under Sec.438(1) of B.N.S.S., 2023, to stay all further proceedings of the criminal case in Spl.SC. No. 40 of 2021 on the file of the Sessions Judge, Fast Track Mahila Court, Thiruvavarur pending disposal of the present petition.

For Petitioner(s): Mr. K. Pragadeesh Kumar

For Respondent(s): Mr.R.Vinothraja,
Government Advocate (Crl. Side)



ORDER

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The revision challenges the order passed by the learned Sessions Judge dismissing the petition filed under Sec.319 Cr.P.C. (now under Sec.358 of B.N.S.S.) to summon additional accused in the case.

2. The petitioner is an accused in Spl. S.C.No.40 of 2021 facing prosecution for the offence under Sec.6, 5(j)(ii), 5(l), 17, 21(1) of POCSO Act.

3. The case of the petitioner is that the victim apart from accusing him of the aforesaid offences, had accused two other persons of sexual assault during the course of investigation; that the respondent without conducting proper investigation had not filed the final report against those two persons; that the victim in her cross-examination has admitted that she had made statements about the involvement of those two persons and that therefore, there is evidence recorded during the course of trial warranting action under Sec.319 of Cr.P.C.

4. The petitioner therefore filed a petition before the learned Special Judge, Fast Track Mahila Court, Thiruvavur under Sec.319 of Cr.P.C. The learned judge dismissed the said petition on the ground that the evidence adduced by the prosecution is not sufficient to summon the additional accused



as claimed by the petitioner, since the victim in her cross-examination has denied the involvement of other two accused sought to be now summoned.

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5. The learned counsel for petitioner would submit that in the cross-examination, the victim had admitted that she had told the police about the involvement of two other accused in the alleged offence of sexual assault; that therefore, that is sufficient to summon those two accused; and that the impugned order is liable to be set aside.

6. The learned Public Prosecutor, per contra, would submit that the victim had in her deposition had not spoken about the involvement of two other accused; that though in her cross-examination, she admitted to have made certain statements to the police implicating the other two accused; that in fact, in her deposition, she had denied the involvement of those two accused and that therefore, the learned Judge was right in dismissing the petition filed under Sec.319 of Cr.P.C.

7. Admittedly, the victim in her chief-examination has not spoken about the involvement of other two persons, who are not arrayed as accused before the trial court. However, in her cross-examination, the victim admitted that she made a statement to the police about the involvement of two other persons. The said admission at best suggests that she made such a statement to the police,



which is inadmissible. It is needless to say that the statement made before the police can only be used for the purpose of contradiction and the said statement cannot be basis to summon any person under Sec.319 of Cr.P.C. In fact, in the further cross-examination, she had denied the involvement of other persons in the offence. Therefore, the order of the learned judge does not suffer from any infirmity. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

08-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

RPP

To

1. The Sessions Judge, Fast Track Mahila Court, Thiruvapur
2. The Inspector of Police, Thiruvapur Town Police Station, Thiruvapur.
3. The Public Prosecutor, High Court, Madras.



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SUNDER MOHAN J.

RPP

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