



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2026

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THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

Crl.O.P.(MD).No.4586 of 2026
and Crl.M.P(MD).No.4870 of 2026

Ganesh

... Petitioner

Vs.

State of Tamilnadu,
rep., by the Inspector of Police,
Tirunelveli Junction Police Station,
Tirunelveli District.
Crime No.187 of 2019

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the order dated 11.01.2024 passed in Crl.M.P.No.3761 of 2023 in Spl.C.C.No.04 of 2020 on the file of the learned Sessions Judge Special Court for POCSO Act Cases, Tirunelveli, Tirunelveli District and now pending as Spl.C.C.No.264 of 2025 on the file of the Special Sessions Judge Mahila Court, Tirunelveli and set aside the same.

For Petitioner : Mr.S.Saravanakumar

For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

Seeking to set aside the order passed by the learned Sessions Judge Special Court for POCSO Act Cases, Tirunelveli, in Crl.M.P.No.3761 of 2023



in Spl.C.C.No.4 of 2020 dated 11.01.2024, this criminal original petition is filed.

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2.The learned counsel for the petitioner submitted that the petitioner is an accused in the pending POCSO case in Spl.C.C.No.4 of 2020 on the file of the learned trial Court. The petitioner had filed a petition under Section 311 Cr.P.C., to recall P.W.1 to P.W.10 for the purpose of cross-examination. The learned trial Court had partly allowed the same on payment of cost of Rs.1,500/- on or before 01.02.2024, permitted to recall P.W.1 and P.W.3 to P.W.10 for cross-examination on payment of batta and process to P.W.1 and P.W.3 to P.W.10. However, with regard to cross-examination of P.W.2, victim, the said petition was dismissed. Aggrieved over the same, the present petition has been filed.

3.The learned Additional Public Prosecutor submitted that only based upon the bar under Section 33 (5) of POCSO Act, the trial Court had rightly dismissed the petitioner's application as against recalling of P.W.2 for cross-examination. There is no infirmity or illegality in the said order and hence, sought dismissal of this petition.

4.The learned counsel for the petitioner relying upon the order passed by this Court in CrI.O.P(MD).No.4131 of 2022, dated 07.03.2022, submitted that



once the victim had attained the age of majority, the bar under Section 33 (5) of POCSO Act will become redundant.

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

6. A careful perusal of the charge sheet and the other materials placed before me would reveal the fact that though it is coloured as POCSO case, the case is one which would fall under Romeo Juliet category as pointed out by the Hon'ble Apex Court. In this regard, though this Court is not able to agree with the argument put forth by the learned counsel for the petitioner that the victim is not a child anymore and the bar will not operate as against the victim, considering the nature of the facts and circumstances involved, the impugned order dated 11.01.2024 passed in CrI.M.P.No.3761 of 2023 in Spl.C.C.No.04 of 2020 on the file of the learned Sessions Judge Special Court for POCSO Act Cases, Tirunelveli, Tirunelveli District and now pending as Spl.C.C.No.264 of 2025 on the file of the Special Sessions Judge Mahila Court, Tirunelveli, is hereby modified directing the trial Court to permit the petitioner to recall and cross-examine the victim, P.W.2 on payment of Rs.5000/- as witness batta. It is made clear that the cross-examination should be concluded by the petitioner on the same day of recalling itself.



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7. With the above directions, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

27.02.2026

NCC : Yes / No

Index : Yes / No

Rmk

To

1. The Sessions Judge Special Court for POCSO Act Cases,
Tirunelveli, Tirunelveli District.

2. The Inspector of Police,
Tirunelveli Junction Police Station,
Tirunelveli District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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L.VICTORIA GOWRI, J.

Rmk

CrI.O.P.(MD)No.4586 of 2026

27.02.2026