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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2026

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.5027 of 2026
and
Crl.M.P.(MD).No.5371 of 2026

Sathishkumar

...Petitioners/Sole Accused

Vs

State of Tamil Nadu,
Rep. by its The Inspector of Police,
Colachel All Women Police Station,
Colacehl, Kanniyakumari District.
(In Crime No.11 of 2021)

...Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS Act, to call for the records of the order in Crl.M.P.No.28 of 2026 in Spl.S.C.No.40 of 2022 on the file of the Special Court for the POCSO Offence Cases/Special Sessions Judge, Kanniyakumari District at Nagercoil, dated 05.02.2026 and set aside the same and consequently, direct the learned Special Court for the POCSO Offence Cases/ Special Sessions Judge, Kanniyakumari District at Nagercoil to Recall P.W.19 and P.W.20 and allow the petitioner to cross examine those witnesses.

For Petitioners : Mr.M.Suri

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



ORDER

The present petition has been filed by the sole accused in Spl.S.C.No.40 of 2022 on the file of the Special Court for the POCSO Offence Cases/Special Sessions Judge, Kanniyakumari District at Nagercoil, challenging the order dated 05.02.2026 passed in CrI.M.P.No.28 of 2026 in Spl.S.C.No.40 of 2022 by the Special Court for the POCSO Offence Cases/Special Sessions Judge, Kanniyakumari District at Nagercoil, wherein the application of the petitioner under Section 311 of Cr.P.C., for cross examination of P.W.19 and P.W.20 has been dismissed.

2.According to the learned counsel appearing for the petitioner, all other witnesses have been cross examined promptly by the petitioner. But P.W.4 was not cross examined and on filing an application under Section 311 of Cr.P.C., the same was allowed and thereafter, P.W.4 was also cross examined. He further submits that P.W.19 was chief examined on 18.12.2025 and due to illness on the part of the counsel, he could not be cross examined on the said day. P.W.20 was chief examined on 09.01.2026 and he could not be cross examined on the said day and hence, the application in CrI.M.P.No.28 of 2026 has been filed seeking to recall P.W.19 and P.W.20 for the purpose of cross examination and the same was dismissed by the Special Court for the POCSO Offence Cases/Special



Sessions Judge, Kanniyakumari District at Nagercoil. Hence, the present petition has been filed. He further submits that unless the police officials are brought for cross-examination regarding the contradictions that emerged from the evidence of P.W.4, serious prejudice would be caused to the accused.

3.Per contra, the learned Additional Public Prosecutor appearing for the respondent Police submits that the petitioner is in the habit of dragging on the proceedings and that the proceedings have been dragged on for more than four years due to the delaying tactics adopted by the petitioner.

4.Heard the learned counsel on either sides and perused the materials available on record.

5.FIR in Crime No.11 of 2021 has been registered on 18.03.2021 and the charge sheet has been laid on 14.12.2021. After a period of 3 years, P.W.19 was chief examined on 18.12.2025 and P.W.20 was chief examined on 09.01.2026. On the same day of chief examination of P.W.20, the petitioner has filed a petition to defer the cross examination of P.W.20 and the same was dismissed. Thereafter, the petitioner has filed an application under Section 311 Cr.P.C., to recall P.W.19 and P.W.20 for the purpose of cross examination and the same was



dismissed by the Special Court for the POCSO Offence Cases/Special Sessions Judge, Kanniyakumari District at Nagercoil.

6.The victim has already been cross-examined and there is no request on the part of the petitioner to cross-examine the victim. Hence, it would meet the ends of justice, if the petitioner is permitted to cross-examine P.W.19 and P.W.20

7.In view of the above observations, the impugned order dated 05.02.2026 passed in CrI.M.P.No.28 of 2026 in Spl.S.C.No.40 of 2022 by the Special Court for the POCSO Offence Cases/Special Sessions Judge, Kanniyakumari District at Nagercoil is set aside and this Criminal Original Petition stands allowed with a direction to the petitioner herein to complete the cross-examination of P.W.19 and P.W.20 on a single day. It is made clear that no further opportunity shall be granted to the petitioner. Consequently, the connected Criminal Miscellaneous Petition is closed.

10.03.2026

NCC : Yes/No

Index : Yes/No

Internet: Yes/No

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Note:Issue Order Copy on 11.03.2026.



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To

- 1.The Special Court for the POCSO Offence Cases
/Special Sessions Judge,
Kanniyakumari District at Nagercoil.
- 2.The Inspector of Police,
Colachel All Women Police Station,
Colacehl, Kanniyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

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