



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2026

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.5576 of 2026

Selvam @ Selva Kumar

...Petitioner/Petitioner/Sole Accused

Vs

The State of Tamilnadu,
Rep by the Inspector of Police,
All Women Police Station,
Kanyakumari.
Crime No.19/2019.

...Respondent/Respondent/De-jure Complainant

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS Act, 2023, to set aside the impugned dismissal order dt.17.02.2026 passed in Crl.M.P.No.47/2026 in Spl SC No.3/2020 on the file of the Special Court of POCSO Act Cases, Nagarkovil District and direct Special Court of POCSO Act Cases, Nagerkovil to recall the witnesses for cross examination.

For Petitioner

: M/s.T.J.Ebenezar Charles

For Respondents

: Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



ORDER

The present petition has been filed by the accused person in Spl.S.C.No.3 of 2020, on the file of the Special Court for POCSO Act Cases, Nagercoil, challenging the order of rejection of an application filed under Section 311 of Cr.P.C.

2. The present petition has been filed under Section 311 of Cr.P.C. when the case was posted for questioning under Section 313 of Cr.P.C.

3. P.W.1 (victim's girl) was chief examined on 13.10.2022. P.W.2(victim's father) was chief examined on 08.04.2025. The other eyewitnesses were examined between April 2025 and August 2025.

4. The petitioner herein filed a memo on 12.11.2025 seeking to recall P.W.1 and P.W.2 to cross examine them. The memo was allowed. Though the petitioner was granted a chance to cross examine them, the said opportunity was not utilised by the accused person on the ground that the learned Counsel was not available.



5. The petitioner herein had filed Crl.M.P.No.176 of 2025 again to recall PW.1 and P.W.2. The said application was allowed on 30.06.2025 and the victim child as well as her father were present on 27.11.2025. Even on the said date, they were not cross examined.

6. As far as P.W.4, P.W.6 and P.W.7 are concerned, the learned Counsel had made an endorsement that there is no cross. As far as P.W.5, P.W.8 to P.W.11 are concerned, they have been cross examined by the previous learned Counsel who appeared of the petitioner.

7. However, the present application has been filed seeking to recall P.W.1 to PW.12 for cross examination.

8. The trial Court has pointed out all the above said facts and proceeded to dismiss the application especially on the ground that the case is posted on 03.01.2026 for advancing arguments.

9. A narration of the above said facts would clearly indicate that though the petitioner was granted two chances to cross examine P.W.1 and P.W.2, he has not utilised those chances and when the case is posted for arguments, the



present application has been filed on the sole ground that they have changed the Counsel.

10. In view of the above said facts, this Court does not find any reasons in the order passed by the trial Court. Accordingly, this Criminal Original Petition stands dismissed.

18.03.2026

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR

To

1. The learned Judge,
The Special Court of POCSO Act Cases,
Nagarkovil District.
2. The Inspector of Police,
All Women Police Station,
Kanyakumari.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

RJR

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