



Crl.OP(MD).No.7142 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **03.06.2026**

CORAM:

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.7142 of 2026
and
CrI.M.P.(MD).No.7694 of 2026

Saravanan

...Petitioner

Vs

State Of Tamilnadu Rep By
Inspector Of Police,
AWPS-Marthandam,
Kanyakumari District.
Crime No.06/2019

...Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS Act, 2023, To call for the records relating to the order dated 12.03.2026 passed in CrI.MP.No.511/2025 in Spl.SC.No.81/2019 on the file of the learned Sessions Judge, Special Court for Trial of cases under the Protection of Children from Sexual Offences Act, Kanyakumari District at Nagercoil, insofar as it dismisses the petition for recall of P.W.1, P.W.3 and P.W.4 and set aside the same as illegal, and consequently permit the petitioner/accused to cross-examine the said witnesses, on such terms as this Court may deem fit and thus render justice.

For Petitioner : M/s.T.Wins

For Respondent : Mr.B.Arun
Counsel for State of TN (crl.side)



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ORDER

The present petition has been filed by the accused in Spl.S.C.No.81 of 2019 pending on the file of the Special Court for POCSO Cases, Kanyakumari District, challenging the dismissal of his application filed under Section 348 of BNSS.

2. A perusal of the records reveals that the application has been filed under Section 348 of BNSS, seeking to recall P.W.Nos.1, 3, 4, and 11. The P.W. 1 (the victim girl) and P.W.3 (the mother of the victim) were chief-examined on 10.02.2021. The P.W.4 (the grandmother of the victim) was chief-examined on 21.04.2025, and P.W.11 (the Doctor) was chief-examined on 04.06.2025. However, none of these witnesses were cross-examined. The application under Section 348 of BNSS was filed on 17.11.2025. The said application was dismissed by the trial Court on 12.03.2026, relying upon Section 33(5) of the POCSO Act and also on the ground that no proper reasons were assigned for filing the said application after a lapse of five years.

3. The learned Counsel appearing for the petitioner submits that since the Counsel had not appeared for the past so many years, P.W.Nos.1, 3, 4, and 11 could not be cross-examined. He further pointed out that the trial Court has



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partly allowed the application granting permission to recall only P.W.11 for cross-examination. He further contends that the victim girl has married a third party and, therefore, unless she is cross-examined, the petitioner would be put to great prejudice.

4. Heard the learned Counsel appearing on either side and perused the materials available on record.

5. The dates and events narrated above clearly indicate that the victim girl, her mother, and her grandmother were examined long ago, and no proper reasons have been assigned for filing the application under Section 348 of BNSS, that too after a delay of five years.

6. In view of the above facts and considering the nature of the allegations against the petitioner, this Court is not inclined to interfere with the impugned order. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

03.06.2026

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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R.VIJAYAKUMAR, J.

gvn

To:-

1. The Sessions Judge, Special Court for Trial of cases under the Protection of Children from Sexual Offences Act, Kanyakumari District at Nagercoil.
2. The Inspector Of Police, AWPS-Marthandam, Kanyakumari District.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

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