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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04-11-2026

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

CRL OP(MD) No. 7464 of 2026

CNR:{HCMD010529342026}

Case QR

R.L. AjithKumar
Petitioner confined at Central Prison,
Palayamkottai.

..Petitioner(s)/A1

Vs

State Of Tamilnadu,
Rep by the Inspector Of Police,
Thuckalay Police Station,
Kanniyakumari District.
Crime No.229 of 2025.

..Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records and set-aside the order passed by the learned Special Judge for the Exclusive Trial of POCSO Act cases, Kanniyakumari District at Nagercoil in Crl.M.P.No.37 of 2026 in Spl.S.C.No.29 of 2025, dated 04.02.2026, by allowing this Crl.OP.

For Petitioner(s) :M/s.M.Jegadeesh Pandian
for M/s.Aran Legal Consultancy

For Respondent(s) : M/s.P.Samuel Gunasingh
Additional Public Prosecutor

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ORDER

The present petition has been filed by A1 on the file of the Learned Special Judge for the Exclusive Trial of POCSO Act cases, Kanniyakumari District at Nagercoil, seeking to set aside the order passed in Crl.M.P.No.37 of 2026, wherein the request of the petitioner to recall P.W.3 to P.W.12, has been rejected.

2. A perusal of the records reveal that the petitioner herein is charged with the offences under Sections 87, 351(2) and 64 of BNS, and Sections 5(I), 6, 7, 8, 9(m), 10 of the POCSO Act.

3. The petitioner has chosen to cross examine the victim girls who are examined as P.W.1 and P.W.2. P.W.3 to P.W.6 are the relatives of the victim girls. P.W.7 to PW.12 are the other witnesses. They were examined between November 2025 and January 2026. However, the petitioner has not chosen to cross-examine any one of them. The present application has been filed on 22.01.2026. Only reason assigned in the petition is due to personal inconvenience of the Counsel appearing for the accused persons, they could not be cross examined. The trial Court has chosen to dismiss the said application on the grounds that no appropriate reason has been assigned by the petitioner for seeking to recall P.W.3 to P.W.12.

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4. According to the learned Counsel appearing for the petitioner, already the second accused had filed a Crl.O.P.(MD)No.20504 of 2026, before this Court seeking to recall P.W.1 to P.W.6, and the same has been allowed by this Court on 16.09.2026.

5. I have considered the submissions made on either side and perused the materials available on record.

6. As could be seen from the records, already A2 has been permitted to recall P.W.1 to P.W.6. It is also brought to the notice of the Court that the case is posted on 11.11.2026, for the cross examination of P.W.5 and P.W.6. In such circumstances, the petitioner can be granted one more chance for cross examining the witnesses.

7. Considering the above said facts, this Court is inclined to pass the following order:-

a) The order passed in Crl.M.P.No.37 of 2026, is hereby set aside and the petitioner shall be permitted to recall P.W.3 to P.W.6 and P.W.8 and P.W.9. In respect of P.W.7, P.W.11 and P.W.12, the request of the petitioner stands rejected;

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b) The petitioner shall cross-examine the witnesses on the date on which they appear;

c) The petitioner shall pay batta within a period of 3(three) days from the date of receipt of a coy of this order; and

d) As far as the other witnesses are concerned, the petitioner shall cross examine them on the date on which they appear. The petitioner shall not seek any adjournment for cross examination of the other witnesses who are yet to be chief-examined.

8. With the above said observations, this Criminal Original Petition stands allowed.

04-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

RJR

Note: Issue order copy on 05.11.2026

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To

1. The learned Special Judge for the Exclusive Trial of POCSO Act cases, Kanniyakumari District at Nagercoil.

2. The Inspector of Police,
   Thuckalay Police Station,
   Kanniyakumari District.

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

Copy to:-

The Superintendent,
Central Prison, Palayamkottai.

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R.VIJAYAKUMAR, J.
RJR

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