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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 21.05.2026

PRESENT

THE HONOURABLE MR. JUSTICE R.VIJAYAKUMAR

Crl.O.P(MD)No.9683 of 2026

Sadham

...Petitioner

Vs

The State of Tamil Nadu,
Rep. by the Inspector of Police,
Manapparai Police Station,
Trichy District.
(Crime No.205 of 2023)

...Respondent

PRAYER :- This Criminal Original Petition filed under Section 528 of BNSS, 2023, to set aside the order dated 22.04.2026 in Crl.M.P.No.896 of 2026 in Special Sessions Case No.91 of 2023 on the file of the Sessions Judge, Mahila Court, Tiruchirapalli in Crime No.205 of 2023, on the file of the respondent police and allow the petitioner to cross examine the P.W.1.



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For Petitioner : Mr.D.S.Haroon Rasheed

For Respondent : Mr.S.S.Manoj
Government Advocate(crl.side)

ORDER

The present petition has been filed by the third accused in Spl.S.C.No.91 of 2023 on the file of the learned Sessions Judge Mahila Court, Tiruchirapalli, wherein the application filed by the petitioner under Section 311 of Cr.P.C. for recalling P.W.1 for cross examination has been rejected.

2. The petitioner is an accused in a POCSO case. The victim girl was chief examined as P.W.1 on 05.03.2026. She was not cross examined. The present application has been filed on the next date of hearing namely on 13.04.2026 seeking to recall P.W.1. The said application has been dismissed on the sole ground that the victim girl cannot be harassed by the petitioner by recalling her again and again.



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3. According to the learned Counsel appearing for the petitioner, the victim girl was 17 years old at the time of occurrence and she is now 20 years old. Hence, the rigour of Section 33(5) of the POCSO Act would not get attracted.

4. The learned Counsel appearing for the petitioner further submits that he would cross examine P.W.1 on the date of hearing and he would not seek any further adjournment.

5. I have carefully considered the submission made on either side and perused the materials available on records.

6. Considering the fact that the victim girl had attained majority and she is now 20 years old, the rigour of Section 33(5) of the POCSO Act would not get attracted in a strict manner. That apart P.W.1 was chief examined on 05.03.2026 and on the next date of hearing namely on 13.04.2026, the present application has been filed to recall P.W.1. In such circumstances, this Court is of the considered opinion that an



opportunity should be granted to the petitioner to cross examine P.W.1.

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7. Considering the above said facts, the order impugned in the petition is hereby set aside. The petitioner is directed to pay batta within a period of three days from the date of receipt of a copy of this order. The petitioner is directed to cross examine P.W.1 on the same date of appearance. It is made clear that no further opportunity would be granted to the petitioner for cross examination of P.W.1.

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

21.05.2026

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

RJR



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To

1. The learned Sessions Judge,
Mahila Court,
Tiruchirapalli.
2. The Inspector of Police,
Manapparai Police Station,
Trichy District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J

RJR

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