IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE TWENTY SIXTH DAY OF OCTOBER TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 17500 OF 2026

Between:

A.Raju @ Harijana Raju, S/o. Late Erupula Narsimhulu Aged about 29 Years, Occ. Agriculture, R/o. H.No.2-248, Nandimalla Village, Amarachintha Mandal, Wanaparthy District.

...Petitioner/Accused

AND

1. The State of Telangana, Rep by its Public Prosecutor, High Court at Hyderabad.
2. XXXXX, XXXXXX

...Respondents/Complainant

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the order Dated.30/09/2026 in Cr.MP.No. 116 of 2026 in SC.(POCSO).No. 5 of 2023 on the file of Fast Tract Special Court for Expeditious Trial and Disposal of Rape and POCSO Act Cases At Wanaparthy.

I.A. NO: 1 OF 2026

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings in SC.(POCSO).No. 5 of 2023 on the file of Fast Tract Special Court for Expeditious Trial and Disposal of Rape and POCSO Act Cases At Wanaparthy.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri V Raghunath, Senior Counsel representing Sri Verose Sanjana, Advocate for the Petitioner and Sri Jithender Rao Veeramalla, the Additional Public Prosecutor on behalf of the Respondent No. 1 and none appeared for the Respondent No. 2.

The Court made the following: ORDER

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

CRIMINAL PETITION No. 17500 of 2026
(CNR No. HBHC010719372026)

DATE: 26.10.2026

Between :

A. Raju @ Harijana Raju

....Petitioner/Accused

AND

The State of Telangana and another.

...Respondents

: O R D E R :

This criminal petition has been filed by the petitioner/accused aggrieved by the order dated 30.09.2026 passed by the learned Fast Track Special Court for Expeditious Trial and Disposal of Rape and POCSO Act Cases, Wanaparthy, (for short, 'the learned trial Court') in Crl.M.P.No.116 of 2026 in SC.POCSO No.5 of 2023, whereby the learned trial Court dismissed the petition insofar as it sought the recall of PWs.1 and 2 for the purpose of cross-examination.

2. Heard Mr. V. Raghunath, learned Senior Counsel representing Mrs. Verose Sanjana, learned counsel for the petitioner, and Mr. Jithender Rao Veeramalla, learned Additional Public Prosecutor for respondent No.1-State.

3. Learned Additional Public Prosecutor submitted that pursuant to the order, dated 16.10.2026, the concerned Investigating Officer had served the notice on respondent No.2/*de facto* complainant on 19.10.2026 and placed a copy of the said intimation on record. In spite

of service of notice, respondent No.2 has not chosen to enter appearance. Hence, this Court is not having any option except to proceed with the matter in accordance with law.

4. Learned Senior Counsel for the petitioners submitted that the petitioner is facing prosecution for the offences punishable under Section 354 of the Indian Penal Code, 1860 (for short, 'the IPC') and Section 7 read with Section 8 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'the POCSO Act'). The petitioner filed petition *vide* Crl.M.P.No.116 of 2026 in SC.POCSO No.5 of 2023 invoking the provision of Section 311 of the Code of Criminal Procedure, 1973, seeking the recall of PWs.1, 2 and 5 for cross-examination on his behalf. The petitioner specifically stated that due to ill-health of his counsel, the said witnesses could not be cross-examined and material questions could not be put to them. The learned trial Court allowed the petition insofar as PW.5, who is the victim, was concerned, however dismissed it insofar as PWs.1 and 2, who are parents of the victim, were concerned, on the ground that the petitioner had not specified in his petition the questions to be put to PW.1. The reasons given by the learned trial Court are contrary to law. He further submitted that if PWs.1 and 2 were recalled, no prejudice would be caused to the prosecution or the said witnesses. If the opportunity to cross-examine PWs.1 and 2 was denied, the petitioner will be put to great hardship.

5. *Per contra*, learned Additional Public Prosecutor submitted that the petitioner had already cross-examined PWs.1 and 2 and had filed the petition only with an intention to drag on the proceedings on one pretext or another. The learned trial Court had rightly allowed the petition insofar as PW.5 was concerned, as the petitioner had not cross-examined the said witness and had and rightly dismissed the petition insofar as PWs.1 and 2 were concerned. Therefore, there are no grounds to interfere with the impugned order passed by the learned trial Court.

6. Having considered the rival submissions made by the respective parties and upon perusal of the material available on record, it reveals that the petitioner is the sole accused in SC.POCSO.No.5 of 2023 and is facing prosecution for the offences under Section 354 of the IPC and Section 7 read with Section 8 of the POCSO Act. The record further discloses that the petitioner could not cross-examine PW.5 on 19.08.2026 on the ground that his counsel was absent due to ill-health. Thereafter, the petitioner filed Crl.M.P.No.116 of 2026 seeking to recall PWs.1, 2 and 5 for cross-examination. PW.5 is the victim and PWs.1 and 2 are the parents of the PW.5. The learned trial Court, while dismissing the petition insofar as PWs.1 and 2 were concerned, observed that the petitioner had not specified the questions proposed to be put to PW.1 during cross-examination. The reason assigned by the learned trial Court for dismissing the petition insofar as PWs.1 and 2 are concerned is contrary to law.

7. It is relevant to mention that in **Satbir Singh v. State of Haryana and others**[1] , the Hon'ble Supreme Court held that the power under Section 311 Cr.P.C. is very wide and is intended to enable the Court to arrive at the truth and render a just decision. The Court observed that a witness may be recalled at any stage of the trial if such recall is essential for the just decision of the case to elicit relevant facts. It was further held that recall should not be refused on technical grounds when such examination would assist the Court in proper adjudication of the matter and when no prejudice would be caused to the opposite party. Accordingly, the Hon'ble Supreme Court set aside the orders of the courts below and allowed the recall of the witness under Section 311 Cr.P.C. for further examination.

8. It is already stated *supra* that the learned trial Court dismissed petition insofar as recalling of PWs.1 and 2 is concerned, on the ground that the petitioner had not mentioned what are the questions to be posed PW.1 and the same is contrary to law. If an opportunity is given to the petitioner to recall PWs.1 and 2 for cross-examination, no prejudice would be caused either to the prosecution or to the said witnesses.

9. Taking into consideration the peculiar facts and circumstances of the case and to render substantial justice to the parties as well as the principle laid down by the Hon'ble Supreme Court in **Satbir Singh** (*supra*), the impugned order dated 30.09.2026 passed in

[1] Criminal Appeal No.2634 of 2023, dated 29.08.2023

Crl.M.P.No.116 of 2026 in SC. POCSO No.5 of 2023 to the extent that it dismisses the petition seeking recall of PWs.1 and 2 for cross-examination, is liable to be set aside.

10. In the result, the Criminal Petition is allowed, subject to condition that the petitioner shall pay an amount of Rs.2,500/- (Rupees two thousand five hundred only) each to PWs.1 and 2 and to conclude the cross-examination of PWs.1 and 2 on the specified date as fixed by the learned trial Court. In default, the learned trial Court is entitled to proceed with the matter in accordance with law.

Miscellaneous applications, pending if any, shall stand closed

SD/- K. BHAVANI SWAMY
ASSISTANT REGISTRAR

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SECTION OFFICER

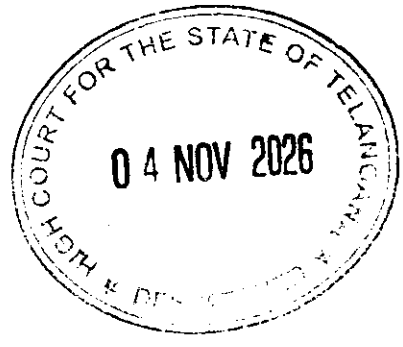
To,

1. The Fast Tract Special Court for Expeditious Trial and Disposal of Rape and POCSO Act Cases At Wanaparthy.
2. The Station House Officer, Amarachintha Police Station, Wanaparthy.
3. Two CCs to Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
4. One CC to Sri Verose Sanjana, Advocate [OPUC]
5. Two CD Copies

Sa/GNK

HIGH COURT

DATED: 26/10/2026



ORDER

CRLP.No.17500 of 2026

ALLOWING THE CRIMINAL PETITION

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