IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE SIXTEENTH DAY OF NOVEMBER TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 18412 OF 2026

Between:

1. Danaveni Devaiah, S/o. Mallaiah, Aged 62 years, Occ: Coolie, R/o. H.No.5-41, Kolanur Village, Konaraopet Mandal, Rajanna Sircilla District.
2. Bodige Malleshwari, W/o. Srinivas, Aged 48 years, Occ: Anganwadi School Teacher, R/o. H.No.2-25/A, Kolanur Village, Konaraopet Mandal, Rajanna Sircilla District.
3. Danaveni @ Davanaveni Padma, W/o. Devaiah, Aged 52 years, Occ: Anganwadi Helper, R/o. Kolanur Village, Konaraopet Mandal, Rajanna Sircilla District.

...Petitioners/Accused nos. 1 to 3

AND

1. The State of Telangana, Rep. by its Public Prosecutor, High Court at Hyderabad for the State of Telangana Through Police Station Konaraopet.

...Respondent

2. The Victim, Represented Through Station House Officer, Police Station Konaraopet

...Respondent/Complainant

Petition under Section 482 of Cr.P.C r/w 528 OF BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to set-aside the order dated 27/10/2026, passed in Crl.M.P.No.215 of 2026 in S.C.(POCSO) No. 22 of 2025 by the Principal Judicial Magistrate of First Class at Sircilla in the interest of justice

I.A. NO: 1 OF 2026

Petition under Section 482 of Cr.P.C r/w 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 S.C.(POCSO) No. 22 of 2025 on the file of the Special Sessions Judge, Fast Track Special Court for Expeditious Disposal of Cases of Rape and POCSO Act, Rajanna Sircilla in the interest of justice

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri T Surya Satish, Advocate for the Petitioners 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. 18412 of 2026
CNR.No. HBHC010766412026

DATE: 16.11.2026

Between :

Danaveni Devaiah and two others

....Petitioners/Accused Nos.1 to 3

AND

The State of Telangana and another.

....Respondents

: O R D E R :

This Criminal Petition has been filed by the petitioners/accused Nos.1 to 3 aggrieved by the order passed by the learned Special Sessions Judge, Fast Track Special Court for Expeditious Disposal of Cases of Rape and POCSO Act, Rajanna Sircilla (for short, 'the trial Court') in Crl.M.P.No.215 of 2026 in S.C.POCSO.No.22 of 2025 dated 27.10.2026, whereby by the petition filed by the petitioners seeking to recall the evidence of PWs.1 to 3 was dismissed.

2. When this matter came up for consideration on 04.11.2026, learned Additional Public Prosecutor sought and adjournment to inform respondent No.2 about filing of the present criminal petition. At his request, the matter was posted to 11.11.2026. On 11.11.2026, learned Additional Public Prosecutor submitted that, pursuant to the order dated 04.11.2026, the Investigating Officer had served notice on

respondent No.2 on 10.11.2026 and placed a copy of the intimation on record. In spite of the same, respondent No.2 has not chosen to enter appearance. However, to give an opportunity, the matter was posted to 13.11.2026. On 13.11.2026, learned Additional Public Prosecutor seeks short adjournment and the matter was posted to 16.11.2026. Today also there is no representation on behalf of respondent No.2. Hence, this Court has no option except to proceed with the matter.

3. Heard Mr. T. Surya Satish, learned counsel for the petitioners, and Mr. Jithender Rao Veeramalla, learned Additional Public Prosecutor for respondent No.1-State.

4. Submissions of learned counsel for the petitioners:

4.1. Learned counsel for the petitioners submitted that the petitioners are accused Nos.1 to 3 and accused No.1 is facing prosecution for the offences punishable under Sections 65(1)(2), 115(2), 351(2) and 137(2) of the Bharatiya Nyaya Sanhita, 2023 (for short 'the BNS') and Section 5(m) read with 6(1) of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act'), accused No.2 is facing prosecution for the offences punishable under Sections 238, 351(2) of the BNS and Section 21 of the POCSO Act, and accused No.3 is facing prosecution for the offences punishable under Sections 238, 351(2) and 296(b) of the BNS and Section 21 of the POCSO Act, 2012.

4.2. In the above case, PWs.1 to 3 were examined, and their evidence was closed on 24.07.2026. Thereafter, the petitioners filed

Crl.M.P.No.215 of 2026 in S.C. POCSO No.22 of 2025, seeking to recall PW.1 to PW.3 for further cross-examination with regard to Exs.P2 and P3 (two pendrives), on the ground that their depositions were contrary to the statements recorded under Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'the BNSS'), on 12.01.2025. The petitioners sought further cross-examination in accordance with Sections 181 of the BNSS and 148 of the Bharatiya Sakshya Adhiniyam, 2023. Learned counsel for the petitioners further submitted that PW.1 to PW.3 had taken different stands in their depositions. Ex.P2 and P3 were not available at the time of their cross-examination by the petitioners. Ex.P2 and P3 were played by the learned trial Court in open Court in the presence of defense counsel, pursuant to the docket order dated 11.08.2026. Learned trial Court, without properly considering the averments made in support of the petition and contentions raised by the learned counsel, dismissed the petition on the ground that the petitioners failed to cross-examine PW.1 to PW.3 in respect of Ex.P2 and P3. Though, Ex.P2 and P3 were played in open Court only on 11.08.2026, which is subsequent to closure of evidence of PW.1 to PW.3 on 24.07.2026. Hence, question of non cross-examination of PW.1 to PW.3 on the above said aspect does not arise and recalling PW.1 to PW.3 for further cross examination in respect of Ex.P2 and P3 is very much necessary.

5. Submissions of learned counsel for the Additional Public Prosecutor :

5.1. *Per contra*, learned Additional Public Prosecutor submitted that there are specific and serious allegations levelled against the petitioners. As per the provision of sub-section (5) of Section 33 of POCSO Act, PW.2 cannot be called repeatedly to testify in the Court. Hence, the petitioners are not entitled to seek recalling of PWs.1 to 3 for further cross-examination.

Analysis :

6. Having considered the rival submissions made by the respective parties and upon perusal of the material available on record, it reveals that petitioner No.1 is facing prosecution for the offences punishable under Sections 65(1)(2), 115(2), 351(2) and 137(2) of the BNS and Section 5(m) read with 6(1) of the POCSO Act, petitioner No.2 is facing prosecution for the offences punishable under Sections 238, 351(2) of the BNS and Section 21 of the POCSO Act, and petitioner No.3 is facing prosecution for the offences punishable under Sections 238, 351(2) and 296(b) of the BNS and Section 21 of the POCSO Act, 2012. PW.1 is the mother of victim, PW.2 is the victim and PW.3 is the father of victim. The evidence of PW.1 to PW.3 was closed on 24.07.2026. Thereafter, the petitioners filed petition invoking the provisions of Section 311 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.'), seeking recall of PW.1 to PW.3 for further cross-examination in respect of Ex.P2 and P3. The record further reveals that Ex.P2 and P3 are pen drives, containing the statements of PW.1 to PW.3 recorded by the Investigating Officer under Sections 161 and 164 of the Cr.P.C. The said

exhibits were played in the open Court in the presence of defence counsel on 11.08.2026 pursuant to the docket order passed by the learned trial Court on 11.08.2026.

6.1. The specific case of the petitioners is that PW.1 to PW.3 took one stand in their depositions, whereas they had taken a different stand in their statements recorded under Sections 161 and 164 of the Cr.P.C. The petitioners came to know about the inconsistencies in their statements only after Exs.P2 and P3 were played in the open Court on 11.08.2026. Hence, the petitioners could not cross-examine PWs.1 to 3 on the said aspect when they entered the witness box. Unless an opportunity is granted to the petitioners, they would be put to great hardship, particularly when they are facing prosecution for serious offences.

7. It is relevant to mention that the Hon'ble Supreme Court in **Satbir Singh v. State of Haryana & Ors.**[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 and when the party seeking recall did not have an earlier opportunity to elicit relevant facts. It was further held that recall should not be refused on technical grounds when such examination

[1] Criminal Appeal 2634 of 2023 dated 29.08.2023

would assist the Court in proper adjudication of the matter and when no prejudice would be caused to the opposite party, who would still have the opportunity to cross-examine the witness. 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. Taking into consideration the peculiar facts and circumstances of the case, and the principle laid down by the Hon'ble Apex Court *supra*, this Court is inclined to grant one opportunity to the petitioners by recalling PW.1 to PW.3 for further cross-examination on the ground that the petitioners could not examine PW.1 to PW.3 in respect of Ex.P2 and P3 and those exhibits were played in the open Court in the presence of defence counsel only on 11.08.2026, which is subsequent to the closure of evidence of PW.1 to PW.3. Hence, the impugned order dated 27.10.2026 passed in Crl.MP.No.215 of 2026 in S.C.POCSO.No.22 of 2025 by the learned trial Court is liable to be set aside and accordingly set aside.

9. Accordingly, the Criminal Petition is allowed, subject to the following conditions:

i. The petitioners shall pay costs of Rs.2,500/- (Rupees Two thousand five hundred only) each to PWs.1 to 3, totalling Rs.7,500/- (Rupees Seven Thousand Five Hundred only)

ii. The petitioners shall conclude the further cross-examination of PW.1 to PW.3 on the date fixed by the learned trial Court, without seeking adjournment.

Miscellaneous applications, pending if any, shall stand closed.

SD/- K. BHAVANI SWAMY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Judicial Magistrate of First Class at Sircilla.
2. The Special Sessions Judge, Fast Track Special Court for Expeditious Disposal of Cases of Rape and POCSO Act, Rajanna Siricilla.
3. The Station House Officer, Konaraopet Police Station, Rajanna Siricilla.
4. Judicial Magistrate of First Class at Sircilla Two CCs to Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
5. One CC to Sri T Surya Satish, Advocate [OPUC]
6. Two CD Copies

Sa/BA

HIGH COURT

DATED: 16/11/2026



ORDER

CRLP.No.18412 of 2026

ALLOWING THE CRIMINAL PETITION

SMT
23/11/26