IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

TUESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

CRIMINAL PETITION NO: 16449 OF 2026

Between:

Syed Waheeduddin Khan, Silo. Late Zainulabduddin Khan, Aged about 43 years, Occ. Unemployee, R/o. Flat No.403, Royal D.M. Apartments, Road No.18, Himayathnagar, Hyderabad.

...Petitioner/Accused

AND

State of Telangana, represented by the Public Prosecutor, High Court of Telangana at Hyderabad.

...Respondents

Petition under Section 482 Cr.P.C under Section 528 of BNSS, 2023 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 16-09-2026 passed in Crl.M.P.No. 924 of 2026 in SC POCSO No.154 of 2020 on the file of the XII Additional Metropolitan Sessions Judge Cum Special Court for POCSO Cases, At Nampally, Hyderabad, and consequently allow the application filed U/S 311 Cr.P.C. by permitting recall of PW- for cross- examination.

I.A. NO: 1 OF 2026

Petition under Section 482 Cr.P.C under Section 528 of BNSS, 2023 praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant Stay of all further proceedings including the personal appearance of the Petitioner/Accused in SC POCSO No.154 of 2020 on the

file of the XII Additional Metropolitan Sessions Judge Cum Special Court for POCSO Cases, At Nampally, Hyderabad pending disposal of the above Criminal Petition (Quash).

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri P Rana Kamalasan, Advocate for the Petitioner and the Additional Public Prosecutor on behalf of the Respondent.

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION No.16449 of 2026

CNR.No.HBHC010683052026

Date: 13.10.2026

Between:
Syed Waheeuddin Khan

...Petitioner

AND

The State of Telangana

...Respondent

ORDER

This Criminal Petition has been filed by the petitioner/accused, aggrieved by the order dated 16.09.2026 passed by the learned Special Sessions Judge for Trial and Disposal of Protection of Children from Sexual Offences (POCSO Act) Cases-cum-XII Additional Sessions Judge, Hyderabad, in Crl.M.P.No.924 of 2026 in S.C.PC.No.154 of 2020, whereby the trial Court dismissed the petition filed by the petitioner seeking to recall PW.10 for further cross-examination.

2. Learned Additional Public Prosecutor submits that, pursuant to the order dated 06.10.2026, the Investigating Officer informed

victim about the filing of the present Criminal Petition on 09.10.2026. In spite of the same, victim has not chosen to enter appearance. This matter came up for consideration on 12.10.2026, and, to give one more opportunity, it was posted to today. Till date, none appears on behalf of victimb. Hence, this Court has no option except to proceed with the matter.

3. Heard Mr.P.Rana Kamalasan, learned counsel for the petitioner and Mr.Jithender Rao Veeramalla, learned Additional Public Prosecutor for respondent No.1.

4. Learned counsel for the petitioner submits that the petitioner is facing prosecution for the offences under Sections 354-A, 354-D and 506 of the IPC and Sections 8 and 12 read with Section 11(iv) of the POCSO Act, 2012, in S.C. PC.No.154 of 2020 before the learned trial Court. PW.1, the victim girl, was recalled pursuant to the petition filed by the prosecution on 21.01.2026. The prosecution got marked Exhibit P8, the birth certificate, through PW.1. Thereafter, the petitioner filed Crl.M.P.No.924 of 2026, seeking recall of PW.10, the Investigating Officer, for cross-examination and confrontation with the document that was marked through PW.1. The learned trial Court, without properly

considering the contentions raised by the petitioner, erroneously dismissed the petition. He further submits that no prejudice would be caused to the prosecution if PW.10 is recalled for cross-examination to confront him with the document that was marked through PW.1. The impugned order passed by the learned trial Court is contrary to law.

5. *Per contra*, the learned Additional Public Prosecutor submits that the petitioner filed the petition only with an intention to drag on the proceedings. He further submits that the petitioner filed the petition after a lapse of seven months from the date of re-examination of the victim girl, PW.1, and the learned trial Court rightly dismissed the petition. 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 after perusal of the material available on record, it reveals that, basing on the petition filed by the prosecution, PW.1 was recalled on 21.01.2026 for the purpose of conducting chief-examination and marking Exhibit P8, the birth certificate, through PW.1. The petitioner filed Crl.M.P.No.924 of 2026, invoking the provisions of Section 311 of the Cr.P.C. read

with Section 348 of the BNSS, seeking recall of the Investigating Officer/PW.10 for further cross-examination and confrontation with the document, i.e., Exhibit P8, which was marked through PW.1/victim girl. The learned trial Court dismissed the petition solely on the ground that the petitioner had filed the present petition seeking recall of PW.10 after a lapse of seven months from the date of re-examination of PW.1.

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 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 would assist the Court in proper adjudication of the matter and when no prejudice would be caused to the opposite party. In the case on hand, the specific case of the petitioner is that the Investigating Officer is required to be confronted with the

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

document. The record discloses that the document was marked after the re-examination of PW.1. Hence, if this Court grants one opportunity to the petitioner to cross-examine PW.10, no prejudice would be caused to the prosecution. However, the petitioner has not prosecuted the matter before the learned trial Court in a diligent manner and filed the present petition seeking recall of PW.10 after a lapse of more than seven months from the date of re-examination of PW.1.

8. Taking into consideration the peculiar facts and circumstances of the case as well as the principle laid down by the Hon'ble Supreme Court in **Satbir Singh** (*supra*), this Court is of the considered view that the petitioner is entitled to give an opportunity for cross-examination of PW.10, and the impugned order dated 16.09.2026 passed in Crl.MP.No.924 of 2026 in S.C. PC. No.154 of 2020 by the learned trial Court is liable to be set aside and accordingly set aside.

9. In the result, the Criminal Petition is allowed, subject to condition that the petitioner shall pay an amount of Rs.5,000/- (Rupees five thousand only) to PW.10 and to conclude the cross-examination of PW.10 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/- M. OSMAN ALI BAIG
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Special Sessions Judge for Trail and Disposal of Protection of Children from Sexual Offences (POCSO Act) Cases –Cum-XII Additional Sessions Judge, Hyderabad.
2. Two CCs to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad (OUT)
3. One CC to Sri P Rana Kamalasan, Advocate [OPUC]
4. Two CD Copies

DL/ABK

HIGH COURT

DATED: 13/10/2026



ORDER

CRLP.No.16449 of 2026

ALLOWING THE CRIMINAL PETITION

17/10/26
R.K