



*Crl.O.P.(MD)No.9946 of 2024*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.08.2024

Delivered on : 06.09.2024

CORAM

**THE HON'BLE MR.JUSTICE K.MURALI SHANKAR**

Crl.O.P.(MD)No.9946 of 2024

The Managing Director,  
Tamil Nadu State Transport Corporation Ltd.,  
Office at No.2, Trivandrum Road,  
Vannarpettai, Tirunelveli

:Petitioner

Vs.

The Inspector of Police,  
Thalaiyuthu Police Station,  
Tirunelveli District.  
Crime No.161 of 2018.

: Respondent

**PRAYER :** Criminal Original Petition filed under Section 482 of Cr.P.C., to issue direction to the respondent Police to hand over the property (Burnt Bus Regn.No.TN-72-N-1182) to the Chief Judicial Magistrate, Tirunelveli in S.C.No.576 of 2023 within time stipulated by this Court.

For Petitioner : Mr.S.Micheal Heldon Kumar,

For Respondent : Mr.E.Antony Sahaya Prabahar,  
Additional Public Prosecutor.



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## **ORDER**

This Criminal Original Petition is directed against the order passed in Cr.M.P.No.27260 of 2023 in S.C.No.576 of 2023, dated 16.11.2023 on the file of the learned Chief Judicial Magistrate, Tirunelveli, dismissing the petition filed under Section 451 of Cr.P.C.

2. The respondent Police has registered a case in Crime No.161 of 2018 for the alleged offence under Sections 294(b), 506(ii), 353 of IPC and Section 4 of TNPPDL Act and after completing the investigation, charge sheet came to be filed for the alleged offences under Sections 294(b), 506(2), 353, 120(B), 109 and 34 of IPC and under Section 4 of TNPPDL Act and after committal by the jurisdictional Magistrate, the case was taken on file in S.C.No.576 of 2023 and the same is pending on the file of the Court of the Chief Judicial Magistrate, Tirunelveli.

3. The case of the prosecution is that a bus bearing Registration No.TN-72-N-1182 belonging to the petitioner/Transport Corporation was burnt by unknown persons on 15.05.2018 and on the basis of the complaint lodged by the bus conductor, FIR came to be registered.



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4. The case of the petitioner is that they have approached the respondent Police for taking possession of the vehicle and sought permission to sell the metal parts of the burnt vehicle; that the petitioner has also sent representations to the respondent Police on 19.12.2022, 21.02.2023 and again on 30.06.2023; that since there was no proper action by the respondent Police, the petitioner Corporation has filed a petition under Section 451 of Cr.P.C in Cr.M.P.No.27260 of 2023 in S.C.No.576 of 2023 before the chief Judicial Magistrate, Tirunelveli, seeking permission to sell the burnt bus bearing Reg.No.TN-72-N-1182 and that the learned Chief Judicial Magistrate, after enquiry, has passed the impugned order, dated 16.11.2023, rejecting the petitioner's application on the ground that the respondent Police has not produced the property before the committal Court.

5. The learned counsel for the petitioner would submit that the respondent Police, after registering the FIR, has not taken any steps to seize the vehicle and for protection of the same before the jurisdictional Magistrate as burnt bus is a material object in the commission of the crime; that the burnt vehicle metal parts was in the safe custody of the petitioner corporation as per instructions given by the respondent Police, that since the petitioner corporation could not dispose of the said burnt bus without the permission of



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the Court and that since the learned Chief Judicial Magistrate has rejected the petitioner's request for selling the burnt bus, they were constrained to approach this Court invoking Section 482 of Cr.P.C.

6. The learned Additional Public Prosecutor appearing for the respondent Police would submit that the respondent Police has not at all seized/recovered the burnt bus, but they have only recovered the small portion of the burnt Aluminium plate, some broken glass pieces and some burnt ashes and the said property were produced before the jurisdictional Court and the same came to be received and remanded.

7. It is evident from the records that the respondent Police has produced the above three items of the property through Form-95 and the same were received and remanded in PR.No.221 of 2018, dated 11.08.2018 by the jurisdictional Magistrate Court.

8. The learned counsel for the petitioner would contend that after the registration of FIR, the respondent Police has directed the petitioner to produce the burnt bus and they were under impression that the burnt bus has been produced before the concerned Court and as per the directions of this



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Court, the respondent has handed over the burnt bus to the petitioner for keeping the same in safe custody; that though the petitioner has sent several representations as to whether the burnt bus was included as the case property, there was no response from the respondent and that therefore, they were constrained to approach Court of Chief Judicial Magistrate, seeking permission to sell the burnt bus.

9. It is pertinent to note that the respondent Police, after filing of the above petition, has sent a letter, dated 16.08.2024 to the petitioner to inform as to whether the bus that was handed over to the petitioner was in the same condition or whether the bus was in running condition ?

10. As rightly contended by the learned counsel for the petitioner, in the said letter, the respondent has stated that the bus was handed over to the petitioner for safe custody. When a specific question was put to the learned Additional Public Prosecutor, on instructions, he would submit that the respondent has not recovered the burnt bus nor taken any bond from the petitioner for receiving the bus for safe custody. If that be the position, this Court is at loss to understand as to why the said letter was sent to the petitioner and that too when the present petition was in part heard stage.



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11. The learned counsel for the petitioner would submit that at least the respondent may be directed to receive the burnt bus and remand the property before the jurisdictional Court and they may be permitted to get back the property for selling the same as no purpose would be served in keeping the metal parts of the burnt bus.

12. The learned Additional Public Prosecutor, on instructions, would submit that the respondent is also ready to produce the property before the jurisdictional Court and the petitioner may be directed to approach the concerned Court for getting the property or for getting permission to sell the same.

13. It is pertinent to note that though FIR came to be registered in the year 2018, the respondent Police has not chosen to recover or seize the burnt bus for remanding the same before the jurisdictional Court. But now after filing of the present petition, they have expressed their readiness and willingness for production of the property before the concerned Court.

14. Considering the above facts and circumstances of the case and the grievance of the petitioner, this Court is of the view that the respondent is to



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be directed to receive the property from the petitioner and then to remand the property before the Assistant Sessions Court, where the case is now pending and that the learned Sessions Judge, after receiving and remanding the property to the file of his Court, is directed to return the property by taking necessary bond and photographs/video of the burnt bus with CD and panchanama, which can be exhibited during the trial. The petitioner after getting the property from the concerned Court, is at liberty to sell the case property.

15. With the above directions, this Criminal Original Petition is disposed of.

**06.09.2024**

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

To

- 1.The Inspector of Police,  
Thalaiyuthu Police Station,  
Tirunelveli District.
- 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**K.MURALI SHANKAR,J.**

DAS

Pre-delivery order made in  
Crl.O.P.(MD)No.9946 of 2024

Dated: 06.09.2024