



WEB COPY



Crl.R.C(MD)No.1228 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.11.2024

Pronounced on : 04.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1228 of 2024

Muneeswaran @ Muniswaran

... Petitioner

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
Rajapalayam North Police Station,
Virudhunagar District.
(Crime No.237 of 2024)

... Respondent

PRAYER : This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, to call for the entire records pertaining to the order passed by the Judicial Magistrate Court, Rajapalayam, Virudhunagar District in Crl.M.P.No.9879 of 2024 vide order dated 15.10.2024 and set aside the same and consequently direct the Judicial Magistrate Court Rajapalayam, Virudhunagar District to return the petitioner's Maruthi Suzuki Ertica bearing its Registration No.TN-19-U-1454 kept in the custody of the above said Judicial Magistrate Court in connection with the case in Crime No.237 of 2024 on the file of the respondent police.

For Petitioner : Mr.D.Rajaboopathy

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor



ORDER

This Criminal Revision Case is directed against the order, dated 15.10.2024, passed in Crl.M.P.No.9879 of 2024 on the file of the learned Judicial Magistrate, Rajapalayam dismissing the petition filed by the petitioner U/s.497 of BNSS for return of Maruthi Suzuki Ertica vehicle bearing registration No.TN-19-U-1454.

2.The brief facts of the case:

On 03.09.2024 at about 09.00 hours the respondent police while on patrol duty, inspected the four wheeler TN-19-U-1454 and seized the vehicle on the ground that the vehicle was used for illegal transport of banned item of 114 bags containing Cool Lip Tobacco without any valid license or permit. A case was registered in Crime No.237 of 2024 under Section 123 of BNS and 24(1) of Cigarette and Other Tobacco Products Act 2003. The petitioner claims to be the owner of the vehicle and approached the learned Judicial Magistrate, Rajapalayam by filing the petition in Crl.M.P.No.9879 of 2024 for return of the said vehicle and the learned Judicial Magistrate has dismissed the petition vide his order dated 15.10.2024.

3. Aggrieved by the order of dismissal, the petitioner has come forward with this present Criminal Revision Case.



WEB COPY

Crl.R.C(MD)No.1228 of 2024



7. On hearing both sides, it is clear that the vehicle was seized on 03.09.2024. The vehicle was seized and is kept in open place which was not disputed by the respondent police. The petitioner claims to be the owner of the vehicle, which is not also disputed by the respondent police. If the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated and no purpose will be served in keeping the vehicle in custody. The Hon'ble Supreme Court issued guidelines in the **Sunderbhai Ambalal Desai case** reported in **2003 (1) CTC 175** in respect of return of seized properties by the police. Considering the overall facts and circumstances of the case, this Court is inclined to allow this revision by following the principle of law laid down by the Hon'ble Supreme Court issued guidelines in the **Sunderbhai Ambalal Desai case** reported in **2003 (1) CTC 175**.

8. Accordingly, this Criminal Revision Case is allowed, and the order dated 15.10.2024 passed in Crl.M.P.No.9879 of 2024 on the file of the learned Judicial Magistrate, Rajapalayam, is hereby set aside. The Maruthi Suzuki Ertica vehicle bearing registration No.TN-19-U-1454 is ordered to be returned to the petitioner on interim custody subject to the confiscation proceedings to be taken by the concerned department or by the Court on the



following conditions:

(i) The petitioner is directed to deposit a sum of **Rs.10,000/- (Rupees Ten Thousand only)** as non-refundable deposit for the said vehicle to the credit of the Head Master, Sethupathi Government Higher Secondary School, Tiruchuli, Virudhunagar District, Account No.30700985498, State Bank of India, Tiruchuli, IFSC Code: SBIN0003832.

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties for the like sum to the satisfaction of the learned Judicial Magistrate, Rajapalayam.

(iii) The vehicle shall be photographed in different angle and the engine and chassis number shall also be photographed in the presence of the Head Clerk of the learned Judicial Magistrate Court, Rajapalayam at the cost of the petitioner and the petitioner's signature to be obtained in the back side of the photographs and the said photographs and CD shall be kept in the case bundle for the purpose of marking them as material objects during trial;

(iv) The petitioner shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate, Rajapalayam.

(v) The petitioner shall not alienate and shall not alter the physical features of the vehicle till disposal of the case.



WEB COPY



Crl.R.C(MD)No.1228 of 2024

(vi) The petitioner shall produce the vehicle before the learned Judicial Magistrate, Rajapalayam monthly once i.e., on first working day of every month and also before the Court and before the respondent police as and when required.

04.12.2024

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

To

- 1.The Judicial Magistrate,
Rajapalayam, Virudhunagar District.
- 2.The Inspector of Police,
Rajapalayam North Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C(MD)No.1228 of 2024

P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.R.C(MD)No.1228 of 2024

04.12.2024