



Crl.R.C.(MD)No.1332 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.1332 of 2024

Murugesan

... Petitioner

Vs.

The State of TamilNadu,
Represented by the Sub Inspector of Police,
Thirumayam Police Station,
Thirumayam
(Crime No.157 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records pertaining to the order passed in Crl.M.P.No.663 of 2024 on the file of the District Munsif cum Judicial Magistrate, Thirumayam, Pudukottai District on 18.11.2024 and set aside the same as illegal and hand over the Vivo Green Color cell phone to the petitioner in Crime No.157 of 2024 on the file of the respondent police.

For Petitioner : Mr.PR.Boomeerajan

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl. Side)



Crl.R.C.(MD)No.1332 of 2024

ORDER

WEB COPY

The Criminal Revision Case is directed against the order, dated 18.11.2024, passed in Crl.M.P.No.663 of 2024 on the file of the District Munsif cum Judicial Magistrate, Thirumayam, Pudukottai District dismissing the petition filed under Sections 497(2) and 503 of BNSS.

2. The petitioner claims to be the owner of the VIVO Green colour cell phone, which was recovered by the respondent police from the scene of occurrence. On 15.10.2024, the respondent police seized the mobile phone on the ground that the same has been used by the accused for communication while they were transporting sakkai stones, and registered a case in Crime No.157 of 2024 for the offence under Sections 21(1) & 21(2) of the Mines and Minerals (Development & Regulation) Act, 1957 read with Section 303(2) of BNS, 2023.

3. It is not in dispute that the petitioner has approached the District Munsif cum Judicial Magistrate, Thirumayam, Pudukottai District by filing a petition for the return of VIVO Green Colour Cell Phone in Crl.M.P.No.663 of 2024, and the learned District Munsif cum



Crl.R.C.(MD)No.1332 of 2024

Judicial Magistrate, Thirumayam, Pudukottai District vide his order, dated 18.11.2024, has dismissed the said petition. Aggrieved by the order of dismissal, the petitioner has now come forward with the present revision.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

5. The learned counsel appearing for the petitioner would submit that the said cell phone is no way connected with the case, and the petitioner is the owner of the cell phone. Without the same, he is unable to meet out his day-to-day affairs. Further, if the seized cell phone is kept at idle, it may deteriorate in a short period, and the petitioner is ready to give guarantee and security for returning the property. Therefore, interim custody of the cell phone may be granted to the petitioner.

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that if the cell phone is given to the



Crl.R.C.(MD)No.1332 of 2024

petitioner on interim custody, there will be a possibility of alienation. He would further submit that the case property has already been handed over to the trial Court and the same has been assigned R.P.No.204 of 2024.

7. In this case, the cell phone was seized on 15.10.2024, and is under the safe custody of the Court below. Considering the facts and circumstances of the case, and also taking into account the submission made by the learned counsel for the petitioner, this Court is inclined to allow this Criminal Revision Case on conditions.

8. Accordingly, this Criminal Revision Case is allowed, and the order, dated 18.11.2024, passed in Crl.M.P.No.663 of 2024 by the learned District Munsif cum Judicial Magistrate, Thirumayam, Pudukottai District, is hereby set aside and the VIVO Green Colour cell phone is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions :

(i) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties for a likesum to the satisfaction of



Crl.R.C.(MD)No.1332 of 2024

the District Munsif cum Judicial Magistrate,
Thirumayam, Pudukottai District;

(ii) the petitioner shall not alienate or encumber
the property in any manner;

(iii) the petitioner shall give an undertaking that
he will not use the property for any illegal activities in
future.

(iv) the property shall be photographed in
different angle at the cost of the petitioner and the
petitioner's signature to be obtained in the backside 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;

(v) the petitioner shall also produce the property
as and when directed by the Court below.

11.12.2024
(1/3)

mkn
NCC : Yes / No
Index : Yes / No
Internet : Yes / No



WEB COPY



Crl.R.C.(MD)No.1332 of 2024

P.VADAMALAI, J.

mkkn

To

- 1.The District Munsif cum Judicial Magistrate,
Thirumayam, Pudukottai District
- 2.The Sub Inspector of Police,
Thirumayam Police Station,
Thirumayam
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.R.C.(MD)No.1332 of 2024

11.12.2024

(1/3)