



Crl.O.P.No.3423 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.3423 of 2025

Subramani

... Petitioner

Vs

1. State Rep.By,
The Inspector of Police,
Thammampatty Police Station.

2. Viswanathan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C/ 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the return docket order dated 10.05.2023 in Crl.M.P.SR.No.1948 of 2023 in C.C.No.340 of 2022 on the file of the learned Judicial Magistrate No.II, Attur, Salem district and to number the petitioner's return of property petition filed under Section 451 of Cr.P.C. seeking return vehicle -JCB bearing registration No.Tn 38 AR 2607 and decide the same on merits.

For Petitioner : Mr.K.R.Samratt
For R1 : Mr.R.Vinothraja
Government Advocate (Crl.side)



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ORDER

This Criminal Original Petition has been filed to set aside the return docket order dated 10.05.2023 in Crl.M.P.SR.No.1948 of 2023 in C.C.No.340 of 2022 on the file of the learned Judicial Magistrate No.II, Attur, Salem, thereby dismissing the application filed by the petitioner seeking return of property in Crime No.27 of 2022, on the ground that already the petition for return of property in CMP.No.739 of 2022 was dismissed.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the first respondent and perused the materials available on record.

3. A perusal of the order passed in Crl.M.P.No.739 of 2022 in Crime No.27 of 2022 filed by the petitioner revealed that it was dismissed on the ground that the investigation is pending. That apart, the vehicle has been involved in the case of illegal transportation of sand gravels. Therefore, the case is tried by the Sessions Court. Now, the investigation in Crime No.27 of 2022 has been completed by the first respondent and filed a final report and the same has been taken cognizance in C.C.No.340 of 2022, on the file of the



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learned Judicial Magistrate No.II, Attur, Salem.

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4. Therefore, there is no offence under the Mines and Minerals Act and also it is not triable by the Sessions Court. Therefore, on such change of circumstances, the petitioner filed another petition for return of property. That apart, there is no bar to file second petition seeking return of property under Cr.P.C/BNSS. Therefore, the Trial Court ought not to have returned the application filed for return of property and the Trial Court ought to have passed an order on merits and in accordance with law.

5. In view of the above, the Docket Order dated 10.05.2023 in Crl.M.P.SR.No.1948 of 2023 in C.C.No.340 of 2022 passed by the learned Judicial Magistrate No.II, Attur, Salem, is hereby set aside. The petitioner is directed to re-present the petition filed for return of property and the Trial Court is directed to take the petition on file and dispose of the same on merits and in accordance with law.



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6. In the result, this Criminal Original Petition stands allowed.

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Internet: Yes
Index: Yes/No
Speaking/Non speaking order
mn

To

1. The Judicial Magistrate No.II, Attur, Salem.
2. The Inspector of Police,
Thammampatty Police Station.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

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