



CrI.R.C.No.212 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.R.C.No.212 of 2025

Sudha

Petitioner(s)

Vs

The State rep. by
Inspector of Police,
B-2 RS Puram Police Station,
Coimbatore District.
(Cr.No.351 of 2024)

Respondent(s)

PRAYER: Criminal Revision Case filed under Section 438 r/w 442 of B.N.S.S, 2023, seeking to set aside the order dated 27.12.2024 made in CrI.M.P.No.36101 of 2024 on the file of the Judicial Magistrate No.I, Coimbatore.

For Petitioner(s):

Mr.Thamarai Selvan

For Respondent(s):

Mr.S.Udayakumar Govt Advocate (crl Side)



CrI.R.C.No.212 of 2025

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ORDER

The revision challenges the dismissal of the petitioner's application filed under Section 497 r/w Section 503 of BNSS seeking return of Oppo F 27 Pro+ 5G mobile, seized by the respondent.

2. The case in Crime No.351 of 2024 was registered for the offence under Section 8 (c) r/w Section 20(b)(ii)(a) of NDPS Act and Section 123 of BNS against the son of the petitioner for possession of 107 grams of ganja. During the course of investigation, it was found that the mobile phone belonging to the petitioner was used by his son, which was seized.

3. The petitioner sought for return of the said mobile phone and the same was dismissed by the learned Judicial Magistrate No.I, Coimbatore, vide order dated 27.12.2024, stating that the mobile phone may be required for the purpose of trial and that it is liable for confiscation.



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4. The learned counsel for the petitioner submitted that there is nothing on record to show how the mobile phone was used for the commission of the alleged offence and that in any case, the petitioner is not an accused and that the interim custody of the mobile phone may be handed over to him as the mobile phone cannot be kept idle, which would not be of any use either to the petitioner or to the prosecution on any stringent conditions.

5. Learned Government Advocate (Crl.Side), on instructions, submitted that the petitioner is the owner of the mobile phone; that there are no previous cases against the petitioner and that no confiscation proceedings are yet to be initiated.

6. Admittedly, there is nothing to suggest that the mobile phone was used by the petitioner's son for commission of the alleged offence. The petitioner is the owner of the mobile phone and it cannot be kept idle at the police station, as rightly contended by the learned counsel for the petitioner and it would not be of any use either to the petitioner or to the respondent.



CrI.R.C.No.212 of 2025

Since the petitioner herein is the owner of the mobile phone and has produced the proof for the same, this Court is inclined to handover interim custody of the mobile phone to the petitioner.

7. Accordingly, learned Judicial Magistrate No.I, Coimbatore, is directed to return the mobile phone Oppo F 27 Pro+5G to the petitioner on the following conditions:

(i)The petitioner shall execute a personal bond for sum of Rs.5,000/- [Rupees Five Thousand only] with two sureties, for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Coimbatore;

(ii) The petitioner shall not alter, or alienate the Oppo F 27 Pro+5G mobile phone, till the trial is completed;

(iii)The petitioner shall also give an undertaking that he will produce the Oppo F 27 Pro+5G mobile phone as and when required by the respondent and by the Court below.



Crl.R.C.No.212 of 2025

8. In the result, this Criminal Revision Case stands allowed setting aside the impugned order, dated 27.12.2024 in Crl.M.P.No.36101 of 2024 in Crime No.351 of 2024 passed by the learned Judicial Magistrate No.I, Coimbatore.

31.01.2025

Anu

Index : Yes / No

Neutral Citation : Yes/No

To

1.The Inspector of Police,
B-2 RS Puram Police Station,
Coimbatore District.

2.The Judicial Magistrate No.I, Coimbatore

3.The Public Prosecutor
High Court of Madras
Chennai



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Crl.R.C.No.212 of 2025

SUNDER MOHAN, J.

Anu

Crl.R.C.No.212 of 2025

31.01.2025