



Crl.R.C.(MD)No.121 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2025

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.121 of 2025

C.Katturaja

... Petitioner

Vs.

State rep.by
The Inspector of Police,
Sivagiri Police Station,
Sivagiri, Tenkasi District.
(Crime No.105 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w Section 442 of BNSS, to call for the records pertaining to the order dated 22.10.2024 passed by the learned Additional District Munsif cum Judicial Magistrate, Sivagiri, Tenkasi District in Cr.M.P.No.2328 of 2024 in Crime No.105 of 2024 dated 21.03.2024 on the file of the respondent police and set aside the same, and direct the respondent police to return the vehicle TVS XL bearing Registration No.TN-79-L-7805 to the revision petitioner.



Crl.R.C.(MD)No.121 of 2025

WEB COPY

For Petitioner : Mr.S.Radhakrishnan
For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

The Criminal Revision Case is filed against the order, dated 22.10.2024, passed in Cr.M.P.No.2328 of 2024 on the file of the learned Additional District Munsif cum Judicial Magistrate, Sivagiri dismissing the petition filed under Sections 497 and 503 of BNSS.

2. The petitioner claims to be the owner of the vehicle TVS XL bearing Registration No.TN-79-L-7805. On 21.03.2024, the respondent police seized the vehicle on the ground that the vehicle was used for illegal transportation of liquor bottles, and registered a case in Crime No.105 of 2024 for the offence under Sections 4(1)(a) and 14A of the Tamil Nadu Prohibition Act.

3. It is not in dispute that the petitioner has approached the learned Additional District Munsif cum Judicial Magistrate, Sivagiri by



Crl.R.C.(MD)No.121 of 2025

filing a petition for the return of two wheeler bearing registration No.TN-79-L-7805 in Cr.M.P.No.2328 of 2024, and the learned Additional District Munsif cum Judicial Magistrate, Sivagiri, vide order dated 22.10.2024, 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 Additional Public Prosecutor appearing for the respondent.

5. The learned counsel appearing for the petitioner would submit that the vehicle TVS XL bearing Registration No.TN-79-L-7805 is owned by the petitioner, and the said vehicle has no connection whatever with the alleged occurrence, and the vehicle is with the police for the past ten months, and if the vehicle is kept in open place, the value of the said vehicle will get deteriorated. Therefore, interim custody of the vehicle may be granted to the petitioner.



Crl.R.C.(MD)No.121 of 2025

WEB COPY

6. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is the owner of the two wheeler bearing registration No.TN-79-L-7805, and the said vehicle was used for illegal transportation of liquor bottles. He would also submit that the petitioner is not an accused in the aforesaid case, and the confiscation proceeding has not been initiated yet.

7. In this case, the vehicle was seized on 21.03.2024. The vehicle is kept in the open place from 21.03.2024 onwards. Further, 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. Considering the over all facts and circumstances of the case, this Court is inclined to allow this revision by following the principle of law laid down by the Honourable Supreme Court, in the case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat [2002 (10) SCC 283]***.

8. Accordingly, this Criminal Revision Case is allowed, and the order, dated 22.10.2024, passed in Cr.M.P.No.2328 of 2024 by the learned Additional District Munsif cum Judicial Magistrate, Sivagiri is



Crl.R.C.(MD)No.121 of 2025

WEB COPY

hereby set aside and the vehicle TVS XL bearing Registration No.TN-79-L-7805 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.50,000/- (Rupees Fifty Thousand only) with two sureties for the like sum to the satisfaction of the learned Additional District Munsif cum Judicial Magistrate, Sivagiri;

(ii) 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 Additional District Munsif cum Judicial Magistrate, Sivagiri 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;

(iii) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Additional District Munsif cum Judicial Magistrate, Sivagiri;



Crl.R.C.(MD)No.121 of 2025

(iv) the petitioner shall not dispose or alienate or change the physical features of the vehicle till the disposal of the case or till disposal of the confiscation proceeding; and

(v) the petitioner shall cooperate with the trial Court for disposal of the case and also to complete the confiscation proceeding.

(vi) the petitioner shall produce the vehicle before the learned Additional District Munsif cum Judicial Magistrate, Sivagiri once in a month i.e. on 1st working day of every English Calender month at 10.30 a.m. until further orders.

30.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Crl.R.C.(MD)No.121 of 2025

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



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Crl.R.C.(MD)No.121 of 2025

P.VADAMALAI, J.

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Crl.R.C.(MD)No.121 of 2025

30.01.2025