

Crl.R.C(MD)No.50 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.01.2025

Pronounced on : 21.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.50 of 2025

Kannan

... Petitioner

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.
(Crime No.357 of 2024)

... Respondent

PRAYER : This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, to call for the records pertaining to the order passed in Cr.M.P.No. 9544 of 2024 on the file of the Judicial Magistrate No.1, Kuzhithurai, dated 20.12.2024 and set aside the same by allowing the revision petition.

For Petitioner : Mr.P.Suresh

For Respondent : Mr.RM.Anbunithi
Additional Public Prosecutor



ORDER

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This Criminal Revision Case is filed against the order, dated 20.12.2024, passed in Crl.M.P.No.9544 of 2024 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, dismissing the petition filed by the petitioner U/s.497 of BNSS for return of vehicle bearing registration Number TN-55-BJ-5564.

2.The brief facts of the case:

On 01.11.2024 at about 9.30 a.m., the respondent police officials were in checking vehicles at Kuzhithurai junction, whileso they stopped and inspected the vehicle bearing registration number TN-55-BJ-5564 and found chicken waste, which was illegally transported from Kerala without any authenticated permission from the Government and so the vehicle with waste food were seized. A case was registered in Crime No.357 of 2024 U/s.271, 272 and 123 of the Bharatiya Nyaya Sanhita (BNS), 2023. The petitioner claims to be the owner of the vehicle and approached the Judicial Magistrate Court No.I, Kuzhithurai, by filing the petition in Crl.M.P.No.9544 of 2024 for return of the said vehicle and the learned Judicial Magistrate has dismissed the petition vide his order, dated 20.12.2024.

3. Aggrieved by the order of dismissal, the petitioner has come forward with this present criminal revision case.



4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the records in this Criminal Revision Case.

5. The learned counsel appearing for the revision petitioner has submitted that the petitioner is the owner of the seized vehicle in this case. He is also arrayed as Accused No.4 and obtained bail. The petitioner is the proprietor of JKR Marine Products by obtaining proper permission from the Government and they are manufacturing food products for the animals by using chicken waste and fish meat parts. The petitioner has also conducted several awareness programmes among the public and owners of poultry & chicken shops in respect of handling of chicken waste. The respondent police falsely implicated the petitioner in the case and seized the vehicle intentionally. The seized vehicle is kept idle in open yard by the respondent police from the date of seizure on 01.11.2024. If the vehicle is in open place, due to exposure of sun and rain, the value of the vehicle would get deteriorated. The only allegation of the respondent police is if the vehicle is returned, the petitioner would dispose of the vehicle and also continue to use the vehicle for similar crime. Therefore, interim custody of the vehicle may be granted to the petitioner as per the guidelines issued by the Hon'ble Supreme Court in the **Sunderbhai Ambalal Desai case**.



6. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner's vehicle was seized for illegal transportation of chicken waste weighing 4 tons, from Kerala, which will affect the environment as well as the general public due to exposure of such waste and may cause disease and health hazard. There are 16 accused and the petitioner is Accused No.4/owner in this case. The petitioner has not specifically mentioned in the trip sheet for what purpose they transported the food waste. If the vehicle is granted interim custody, the petitioner would alienate the vehicle and continue to commit the same nature of offence.

7. On hearing both sides, it is clear that the vehicle was seized on 01.11.2024, and is kept idle in open place which was not disputed by the respondent police. The petitioner claims to be the owner of the vehicle, which is also not disputed by the respondent police. Of course, 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.

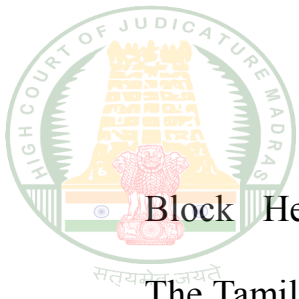
8. However, the learned Single Judge of this Court in the recent decision in **Crl.O.P(MD)Nos.6486, 10056 of 2024, dated 03.02.2025** reported in **2025 (1) LW Crl.239** strictly ordered for confiscation of vehicles used for illegal transport of solid waste, biomedical waste, food waste, plastic waste, etc. from



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neighbouring States to the State of Tamil Nadu, to curtail the menace and to instill fear on offenders by discussing various provisions of Tamil Nadu Urban Local Bodies Act, 1998, Tamil Nadu Urban Local Bodies Rules 2023 and the Bio Medical Waste (Management and Handling) Rules and relied on the decision of Hon'ble Supreme Court in the case of **“Research Foundation for Science, Technology and Ecology /v/ Union of India” (2005) 10 SCC 510**, wherein, the Hon'ble Supreme Court has highlighted the importance of environmentally sound management and directed the Government to ensure the compliance with the Waste Management Rules and thereby, the learned Judge of this Court strictly ordered for confiscation of vehicles used for the alleged offence of illegal transportation of solid waste, bio medical waste etc., by implementing the Tamil Nadu Urban Local Bodies Act 1998 and Tamil Nadu Urban Local Bodies Rules, 2023.

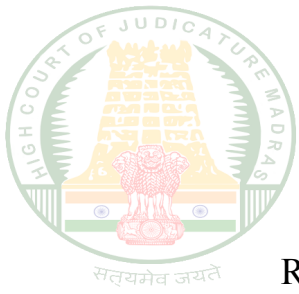
9. However, the above order is applicable to illegal transportation for illegal purposes. In this case, the petitioner has produced several materials to show his ownership of JKR Marine Products, which manufactures food products for animals from chicken waste and fish meat parts. On perusal of the records produced by the petitioner, it is clear that the license was also issued by the Government of Tamil Nadu, Directorate of Industrial Safety and Health with registration Number TVL 12035, dated 17.03.2023 and certificate issued by the



Block Health Supervisor, Govt. Primary Health Centre, Vadakkankulam.

The Tamil Nadu Pollution Control Board has also issued consent for running his factory as seen from the records of the petitioner. He has also conducted various awareness programmes among the owners of the chicken shop and the public in respect of handling of chicken waste and fish waste. These materials are not specifically denied by the respondent. In such circumstances, the petitioner cannot be said to have illegally transported chicken waste and the same can be decided only after full fledged trial by adducing evidence by both. Till then, keeping the vehicle idle would cause heavy damage to the vehicle as rightly argued by the petitioner side. Though the RC bears the owner name JKR Marine Products, the ownership of the vehicle on the petitioner is not disputed. The petitioner has no previous case, which is also admitted by the respondent side. Considering the overall facts and circumstances of the case, this Court is inclined to allow this revision subject to conditions.

10. Accordingly, this Criminal Revision Case is allowed and the order, dated 20.12.2024 passed in Crl.M.P.No.9544 of 2024 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, is hereby set aside. The vehicle/Eicher Pro 2110 H HSD bearing registration No.TN 55 BJ 5564 is ordered to be returned to the petitioner on the following conditions.



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(i) 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 No.I, Kuzhithurai;

(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 Judicial Magistrate Court No.1, Kuzhithurai 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;

(iii) The petitioner shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate No.1, Kuzhithurai;

(vi) The petitioner shall produce the vehicle before the learned Judicial Magistrate No.I, Kuzhithurai on the first working day of every English calendar month until further orders;

(v) The petitioner shall not dispose or alienate or change the physical features of the vehicle till the disposal of the case;

(vi) The petitioner shall cooperate with the trial Court for disposal of the case.

21.04.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To

- 1.The Judicial Magistrate No.I,
Kuzhithurai.
- 2.The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.
(Crime No.357 of 2024)
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.R.C(MD)No.50 of 2025

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