



Crl.R.C.(MD)No.77 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2025

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.77 of 2025

Manoj

... Petitioner

Vs.

State rep.by
The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.
(Crime No.347 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to call for the records pertaining to the impugned order dated 07.12.2024 passed in Crl.M.P.No.9498 of 2024 on the file of the learned Judicial Magistrate No.1, Kuzhithurai and to set aside the same, and direct the respondent police to release the petitioner's Tipper Lorry bearing Registration No.TN-75-AQ-1380.

For Petitioner : Mr.M.R.Sreenivasan

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



Crl.R.C.(MD)No.77 of 2025

WEB COPY

ORDER

The Criminal Revision Case is directed against the order, dated 07.12.2024, passed in Crl.M.P.No.9498 of 2024 on the file of the learned Judicial Magistrate No.1, Kuzhithurai dismissing the petition filed under Section 497 read with Section 503 of BNSS.

2. The petitioner claims to be the owner of the vehicle Tipper Lorry bearing Registration No.TN-75-AQ-1380. On 19.10.2024, the respondent police seized the vehicle on the ground that the vehicle was used for transporting 37.640 tonnes of blue metal by using bogus pass, and registered a case in Crime No.347 of 2024 for the offence under Sections 335, 340(2) and 303(2) of BNS.

3. It is not in dispute that the petitioner has approached the learned Judicial Magistrate No.1, Kuzhithurai by filing a petition for the return of vehicle bearing registration No.TN-75-AQ-1380 in Crl.M.P. No.9498 of 2024, and the learned Judicial Magistrate No.1, Kuzhithurai, vide order dated 07.12.2024, has dismissed the said petition. Aggrieved by the order of dismissal, the petitioner has now come forward with the present revision.



Crl.R.C.(MD)No.77 of 2025

WEB COPY

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 vehicle Tipper Lorry bearing Registration No.TN-75-AQ-1380 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 three 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.

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner, who has been arrayed as A2, is the owner of the vehicle bearing registration No.TN-75-AQ-1380, and the vehicle was used for smuggling 37.640 tonnes of blue metal by using bogus pass. Further, he would submit that the confiscation proceeding has not been initiated yet, and the value of the vehicle is Rs.10,00,000/- (Rupees Ten Lakhs only).



Crl.R.C.(MD)No.77 of 2025

WEB COPY

7. In this case, the vehicle was seized on 19.10.2024. The vehicle is kept in the open place from 19.10.2024 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 07.12.2024, passed in Crl.M.P.No.9498 of 2024 by the learned Judicial Magistrate No.1, Kuzhithurai is hereby set aside and the vehicle Tipper Lorry bearing Registration No.TN-75-AQ-1380 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 is directed to deposit a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** as non-refundable deposit for the said vehicle to the credit of the District Mineral Foundation Trust, Kanniyakumari District;



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Crl.R.C.(MD)No.77 of 2025

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.1, Kuzhithurai;

(iii) 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 Judicial Magistrate No.1, Kuzhithurai 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;

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

(v) the petitioner shall not alienate and shall not alternate the physical features of the vehicle till the disposal of the case; and



Crl.R.C.(MD)No.77 of 2025

WEB COPY

(vi) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

29.01.2025

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

Note : Issue order copy on **30.01.2025**.

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To

- 1.The learned Judicial Magistrate No.1,
Kuzhithurai
- 2.The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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Crl.R.C.(MD)No.77 of 2025

P.VADAMALAI, J.

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Crl.R.C.(MD)No.77 of 2025

29.01.2025