



Crl.R.C.(MD)No.86 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2025

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.86 of 2025

Kubendran

... Petitioner

Vs.

State rep.by
The Inspector of Police,
G.Vilakku Police Station,
Theni District.
(Crime No.201 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records relating to the order dated 31.12.2024 in Crl.M.P.No.5184 of 2024 in Crime No.201 of 2024 on the file of the learned Judicial Magistrate, Andipatti and set aside the same and consequently, direct the learned Judicial Magistrate, Andipatti to return the vehicle Tractor bearing Registration No.TN-49-F-0378, along with the Trailer bearing Registration No.TN-60-D-3362, to the petitioner herein.

For Petitioner : Mr.M.Prabu

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



Crl.R.C.(MD)No.86 of 2025

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ORDER

The Criminal Revision Case is directed against the order, dated 31.12.2024, passed in Crl.M.P.No.5184 of 2024 on the file of the Judicial Magistrate, Andipatti dismissing the petition filed under Section 497 of BNSS.

2. The petitioner claims to be the owner of the vehicles Tractor bearing Registration No.TN-49-F-0378 and the Trailer bearing Registration No.TN-60-D-3362. On 19.11.2024, the respondent police seized the aforesaid vehicles on the ground that the tractor, along with the trailer, was used for transporting one and a half units of gravel sand without any valid license or permit, and registered a case in Crime No.201 of 2024 for the offence under Section 303(2) of BNS r/w Section 21(4) of the Mines and Minerals (Development & Regulation) Act.

3. It is not in dispute that the petitioner has approached the Judicial Magistrate, Andipatti by filing a petition for the return of tractor bearing registration No.TN-49-F-0378 and trailer bearing registration No.TN-60-D-3362 in Crl.M.P.No.5184 of 2024, and the Judicial



Crl.R.C.(MD)No.86 of 2025

Magistrate, Andipatti vide his order, dated 31.12.2024, 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 Government Advocate (Criminal Side) appearing for the respondent.

5. The learned counsel appearing for the petitioner would submit that the vehicles, viz. Tractor bearing Reg.No.TN-49-F-0378 and the Trailer bearing Reg.No.TN-60-D-3362, are owned by the petitioner, and the vehicles are with the police for the past two months, and if the vehicles are kept in open place, the value of the said vehicles will get deteriorated. Further, he would submit that the original RC Books of the vehicles are already under the custody of the learned Judicial Magistrate, Andipatti in R.P.R.No.101 of 2019. Therefore, interim custody of the vehicles may be granted to the petitioner.



Crl.R.C.(MD)No.86 of 2025

WEB COPY

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner, who is 3rd party to this case, is the owner of the tractor bearing registration No.TN-49-F-0378 as well as the trailer bearing registration No.TN-60-D-3362, and the vehicles were used for transporting one and a half units of gravel sand illegally. He would also submit that the petitioner's vehicles were already involved in one previous case, which was registered in Crime No.112 of 2019. The vehicles were seized by the respondent police and thereafter, interim custody was granted to the petitioner by the learned Judicial Magistrate, Andipatti, for which original RC Books of the vehicles were produced by the petitioner before the said Court and the same is now under the custody of the said Court in R.P.R.No.101 of 2019. He would also submit that the value of the vehicles is Rs.3,00,000/- (Rupees Three Lakhs only). Further, he would submit that the confiscation proceeding has not yet been initiated.

7. In this case, the vehicles were seized on 19.11.2024. The vehicles are kept in the open place from 19.11.2024 onwards. Further, if the vehicles are kept in open place exposing to sun and rain, the value of



Crl.R.C.(MD)No.86 of 2025

WEB COPY

the vehicles will be deteriorated and no purpose will be served in keeping the vehicles in custody. Considering the overall 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 31.12.2024 passed, in Crl.M.P.No.5184 of 2024, by the Judicial Magistrate, Andipatti is hereby set aside and the vehicles, viz. Tractor bearing Reg.No.TN-49-F-0378 and the Trailer bearing Reg.No.TN-60-D-3362, are 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.20,000/- (Rupees Twenty Thousand only)** as non-refundable deposit for the said vehicles to the credit of the District Mineral Foundation Trust, Theni District;



Crl.R.C.(MD)No.86 of 2025

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for a likesum to the satisfaction of the Judicial Magistrate, Andipatti;

(iii) the vehicles 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, Andipatti 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 not alienate and shall not alternate the physical features of the vehicles till the disposal of the case; and



Crl.R.C.(MD)No.86 of 2025

WEB COPY

(v) the petitioner shall produce the vehicles before the Judicial Magistrate, Andipatti as and when required.

9. Since the original RC Books of the aforesaid vehicles are already under the custody of the trial Court, the same can be kept until disposal of the present case also.

24.01.2025

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

- 1.The Judicial Magistrate,
Andipatti
- 2.The Inspector of Police,
G.Vilakku Police Station,
Theni District..
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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Crl.R.C.(MD)No.86 of 2025

P.VADAMALAI, J.

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Crl.R.C.(MD)No.86 of 2025

24.01.2025