



Crl.R.C.(MD)No.90 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2025

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

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M.Neerathilingam

... Petitioner

Vs.

State of Tamil Nadu rep. by
The Inspector of Police,
Rajapalayam North Police Station
(Crime No.320 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records relating to the impugned order dated 28.11.2024 passed in Cr.M.P.No.11208 of 2024 on the file of the learned Judicial Magistrate, Rajapalayam and set aside the same and consequently, direct the respondent police to handover the petitioner's vehicle viz. Maruti Suzuki EECO Star car bearing Registration No.TN-84-K-9338.



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For Petitioner : Mr.R.J.Karthick

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

ORDER

The Criminal Revision Case is directed against the order, dated 28.11.2024, passed in Cr.M.P.No.11208 of 2024 on the file of the Judicial Magistrate, Rajapalayam dismissing the petition filed under Sections 497 and 503 of BNSS.

2. The petitioner claims to be the owner of the vehicle, viz. Maruti Suzuki EECO Star car, bearing Registration No.TN-84-K-9338. On 27.10.2024, the respondent police seized the aforesaid vehicle on the ground that the vehicle was used for transporting banned tobacco products, and registered a case in Crime No.320 of 2024 for the offence under Section 123 of BNS r/w Section 24(1) of Cigarette and Other Tobacco Products Acts 2003.

3. It is not in dispute that the petitioner has approached the Judicial Magistrate, Rajapalayam by filing a petition for the return of vehicle bearing registration No.TN-84-K-9338 in Cr.M.P.No.11208 of



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2024, and the Judicial Magistrate, Rajapalayam vide his order, dated 28.11.2024, 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 vehicle, viz. Maruti Suzuki EECO Star car bearing Reg.No.TN-84-K-9338, is owned by the petitioner, 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. Further, he would submit that the original RC Book of the vehicle is already under the custody of the learned Judicial Magistrate, Rajapalayam in P.R. No.283 of 2024. Therefore, interim custody of the vehicle may be granted to the petitioner.



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6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner, who has been arrayed as an accused, is the owner of the vehicle bearing registration No.TN-84-K-9338, and the vehicle was used for transporting banned tobacco products. He would also submit that the petitioner's vehicle was already involved in one previous case, which was registered in Crime No.270 of 2023. The vehicle was seized by the respondent police and thereafter, interim custody was granted to the petitioner by the learned Judicial Magistrate, Rajapalayam, for which original RC Book of the vehicle was produced by the petitioner before the said Court and the same is now under the custody of the said Court in P.R.No.283 of 2024. He would also submit that the value of the vehicle is Rs.1,00,000/- (Rupees One Lakh only).

7. In this case, the vehicle was seized on 27.10.2024. The vehicle is kept in the open place from 27.10.2024 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 overall facts and circumstances of the case,



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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 28.11.2024 passed, in Cr.M.P.No.11208 of 2024, by the Judicial Magistrate, Rajapalayam is hereby set aside and the vehicle, viz. Maruti Suzuki EECO Star car bearing Reg.No.TN-84-K-9338, 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.10,000/- (Rupees Ten Thousand only)** as non-refundable deposit for the said vehicle to the credit of **the Head Master, Sethupathi Government Higher Secondary School, Tiruchuli, Virudhunagar District, Account No.:30700985498, State Bank of India, Tiruchuli, IFSC Code : SBIN0003832;**

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) with two sureties for a likesum to the satisfaction of the Judicial Magistrate, Rajapalayam;



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(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 Judicial Magistrate, Rajapalayam 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 vehicle till the disposal of the case; and

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

9. Since the original RC Book of the aforesaid vehicle is already under the custody of the trial Court, the same can be kept until disposal of the present case also.

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NCC : Yes / No
Index : Yes / No
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P.VADAMALAI, J.

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To

- 1.The Judicial Magistrate,
Rajapalayam
- 2.The Inspector of Police,
Rajapalayam North Police Station.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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