



Crl.R.C.(MD)No.99 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2025

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.99 of 2025

K.Puroshkhan

... Petitioner

Vs.

State rep.by
The Sub Inspector of Police,
Manamelkudi Police Station,
Pudukkottai District.
(Crime No.218 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 passed by the learned District Munsif cum Judicial Magistrate, Manamelkudi in Cr.M.P.No.3196 of 2024 dated 04.01.2025 and set aside the same and consequently, return the petitioner's two wheeler ACTIVA STD SCOOTER bearing Registration No.TN-55-CX-1003 seized by the respondent police in connection with a criminal case in Crime No.218 of 2024.



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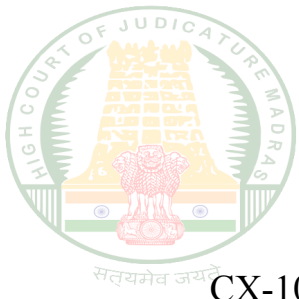
For Petitioner : Mr.K.Kharikharadas
For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl. Side)

ORDER

The Criminal Revision Case is directed against the order, dated 04.01.2025, passed in Cr.M.P.No.3196 of 2024 on the file of the learned District Munsif cum Judicial Magistrate, Manamelkudi dismissing the petition filed under Section 497 of BNSS.

2. The petitioner claims to be the owner of the vehicle ACTIVA STD SCOOTER bearing Registration No.TN-55-CX-1003. On 05.12.2024, 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.218 of 2024 for the offence under Sections 4(1)(A) and 4(1)(C) of the Tamil Nadu Prohibition (Amendment) Act, 2024.

3. It is not in dispute that the petitioner has approached the learned District Munsif cum Judicial Magistrate, Manamelkudi by filing a petition for the return of two wheeler bearing registration No.TN-55-



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CX-1003 in Cr.M.P.No.3196 of 2024, and the learned District Munsif cum Judicial Magistrate, Manamelkudi, vide order dated 04.01.2025, 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 ACTIVA STD SCOOTER bearing Registration No.TN-55-CX-1003 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 one and a half 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.



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6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner is the owner of the two wheeler bearing registration No.TN-55-CX-1003, 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. Further, he would submit that the case property was produced before the trial Court in R.P.No.408 of 2024, and the value of the vehicle comes to Rs.1,20,000/- (Rupees One Lakh and Twenty Thousand only).

7. In this case, the vehicle was seized on 05.12.2024. The vehicle is kept in the open place from 05.12.2024 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]***.



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8. Accordingly, this Criminal Revision Case is allowed, and the order, dated 04.01.2025, passed in Cr.M.P.No.3196 of 2024 by the learned District Munsif cum Judicial Magistrate, Manamelkudi is hereby set aside and the vehicle ACTIVA STD SCOOTER bearing Registration No.TN-55-CX-1003 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.1,00,000/- (Rupees One Lakh only) with two sureties for the like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Manamelkudi;

(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 District Munsif cum Judicial Magistrate, Manamelkudi 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;



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

(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.

28.01.2025

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

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



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P.VADAMALAI, J.

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