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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.01.2025

Pronounced on : 15.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.104 of 2025

P.Ajith ... Petitioner

Vs.

The State through
The Inspector of Police,
Kadayalumoodu Police Station,
Kanyakumari District.
(Crime No.182 of 2024) ... Respondent

PRAYER : This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, to call for the records and set aside the dismissal order, dated 02.01.2025 in Crl.M.P.No.9611 of 2024 on the file of the Judicial Magistrate No.1, Kuzhithurai, Kanyakumari District and allow the Criminal Revision Petition.

For Petitioner : Mr.B.Micheal Sebastin

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

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ORDER

This Criminal Revision Case is directed against the order, dated 02.01.2025 passed in Crl.M.P.No.9611 of 2024 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District dismissing the petition filed by the petitioner U/s.497 of BNSS, for return of vehicle bearing registration No.TN-75--AD-1353.

2.The brief facts of the case:

On 16.12.2024 at about 10.00 a.m., the respondent police officials were checking vehicles at Netta Check Post, at that time, they stopped and inspected the vehicle bearing registration number TN 75 AD 1353 and found food waste in plastic barrels, which was 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.182 of 2024 U/s.272 of the Bharatiya Nyaya Sanhita (BNS) 2023. The petitioner claims to be the owner of the vehicle and approached the Judicial Magistrate Court No.1, Kuzhithurai by filing the petition in Crl.M.P.No.9611 of 2024 for return of the said vehicle and the learned Judicial Magistrate has dismissed the petition vide his order, dated 02.01.2025.

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

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4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) 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 Mini Tempo seized in this case. Only empty plastic cans were available in the vehicle and no food was carried in the vehicle as alleged by the respondent police. The seized vehicle is kept idle in open yard by the respondent police from the date of seizure on 16.12.2024. 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 to the petitioner, he would repeat the crime, but no material was placed by the respondent police and therefore, the interim custody of the vehicle may be granted to the petitioner. The petitioner produced photocopy of the receipt for payment for issuance of licence for pig farm. The learned counsel has relied on the guidelines of the Hon'ble Supreme Court issued in **Sunderbhai Ambalal case.**

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner's vehicle was seized for illegal transport of waste food from Kerala, which will affect the environment as well as the general public due to exposure of such waste and would cause infection of disease and

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health hazard. 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 16.12.2024. The vehicle was seized and is kept in open place which was not disputed by the respondent police. The petitioner claims to be the owner of the vehicle, which is not also 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.

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 neighbouring States to the State of Tamil Nadu, to curtail the menace and to instill fear on offenders by discussing various provisions of the Tamil Nadu Urban Local Bodies Act, 1998, Tamil Nadu Urban Local Bodies Rules, 2023, and the Biomedical Waste (Management and Handling) Rules. The learned Judge has specifically made a quotation of the decision of the Hon'ble Supreme Court in the case of **"Research**

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Foundation for Science, Technology and Ecology /v/ Union of India" reported in **(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.

9. It is further observed by the learned Judge that the National Green Tribunal, Southern Zone, Chennai, took suo motu cognizance of the issue relating to unidentified miscreants who had dumped the biomedical waste, food waste, plastics and other wastes from Kerala to Tamil Nadu in its O.A.No.312 of 2024 to take strict action on the offender by order, dated 19.12.2024 and the NGT is continuously monitoring the issue and is passing directions and directed the concerned Government in its order, dated 02.01.2025 that *"it is high time for both the States to take appropriate action in this regard, Kerala – to stop sending waste of any kind to the neighbouring State and Tamil Nadu – to strengthen the border securities by constituting a Special Task Force ..... if no satisfactory action is taken by the authorities concerned, appropriate directions will be issued, which may not be palatable to the authorities."* Thereby, the learned Judge of this Court strictly ordered for confiscation of vehicles used for the alleged offence of illegal transportation of solid waste, biomedical waste etc., by implementing the Tamil Nadu Urban Local Bodies Act, 1998 and Tamil Nadu Urban Local Bodies Rules, 2023.

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10. In this case, the vehicle has been seized by the respondent police at Netta checkpost on the allegation of illegal transportation of food waste from Kerala. Though the petitioner stated that the alleged food waste was transported for his pig farm, the same can be adjudicated only after fullfledged trial. It is not an appropriate stage to decide the same, as the preliminary investigation stage prima facie materials are only taken into consideration. The petitioner has produced only a copy of the receipt issued by the local body, wherein it is clearly stated as “This is only a receipt, not a licence. The latter will be issued in due course and it is only then that the trade can be started". The petitioner has not produced any material to show that he has been granted permission to run such pig farm and also to transport solid waste and food waste etc., from the neighbouring States for the purpose of approved work like pig farm, fish farm, etc., Therefore, considering the overall facts and circumstances of the case, this Court is not inclined to allow this revision case.

11. In the result, this Criminal Revision Case is dismissed.

15.04.2025

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

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To

1.The Judicial Magistrate No.1, Kuzhithurai,
Kanyakumari District .

2.The State through
The Inspector of Police,
Kadayalumoodu Police Station,
Kanyakumari District.
(Crime No.182 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.104 of 2025

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