



Crl.R.C.(MD)No.110 of 2025

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.110 of 2025

Vivegananthan

... Petitioner

Vs.

State rep.by
The Inspector of Police,
Thiruvaiyaru Police Station,
Thanjavur District.
(Crime No.505 of 2024)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to call for the records pertaining to the order dated 24.10.2024 made in Cr.M.P.No.4163 of 2024 on the file of the learned Judicial Magistrate, Thiruvaiyaru and set aside the same, and direct the respondent herein to grant interim custody of the vehicle viz. Ashok Leyland Lorry bearing Registration No.TN-38-DD-2786, which has been seized by the respondent herein in Crime No.505 of 2024.

For Petitioner : Mr.K.M.Karunakaran

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



CrI.R.C.(MD)No.110 of 2025

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ORDER

The Criminal Revision Case is directed against the order, dated 24.10.2024, passed in Cr.M.P.No.4163 of 2024 on the file of the learned Judicial Magistrate, Thiruvaiyaru dismissing the petition filed under Section 497 read with Section 503 of BNSS.

2. The petitioner claims to be the owner of the vehicle Ashok Leyland Lorry bearing Registration No.TN-38-DD-2786. On 27.09.2024, the respondent police seized the vehicle on the ground that the vehicle was used for transporting six units of M-Sand without any valid license or permit, and registered a case in Crime No.505 of 2024 for the offence under Section 303(2) of BNS r/w Section 21(1) of the Mines and Minerals (Development & Regulation) Act.

3. It is not in dispute that the petitioner has approached the learned Judicial Magistrate, Thiruvaiyaru by filing a petition for the return of vehicle bearing registration No.TN-38-DD-2786 in Cr.M.P. No.4163 of 2024, and the learned Judicial Magistrate, Thiruvaiyaru, vide



Crl.R.C.(MD)No.110 of 2025

order dated 24.10.2024, 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 Ashok Leyland Lorry bearing Registration No.TN-38-DD-2786 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 four 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 is the owner of the vehicle bearing registration No.TN-38-DD-2786, and the vehicle was



Crl.R.C.(MD)No.110 of 2025

used for transporting six units of M-Sand. He would further submit that the value of the property comes to Rs.10,00,000/- (Rupees Ten Lakhs only).

7. In this case, the vehicle was seized on 27.09.2024. The vehicle is kept in the open place from 27.09.2024 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 24.10.2024, passed in Cr.M.P.No.4163 of 2024 by the learned Judicial Magistrate, Thiruvaiyaru is hereby set aside and the vehicle Ashok Leyland Lorry bearing Registration No.TN-38-DD-2786 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



Crl.R.C.(MD)No.110 of 2025

the Court on the following conditions :

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(i) the petitioner is directed to deposit a sum of **Rs.30,000/- (Rupees Thirty Thousand only)** as non-refundable deposit for the said vehicle to the credit of the District Mineral Foundation Trust, Thanjavur District;

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.6,00,000/- (Rupees Six Lakhs only) with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate, Thiruvaiyaru;

(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, Thiruvaiyaru 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, Thiruvaiyaru;

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

(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
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CrI.R.C.(MD)No.110 of 2025

P.VADAMALAI, J.

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To

- 1.The learned Judicial Magistrate,
Thiruvaiyaru.
- 2.The Inspector of Police,
Thiruvaiyaru Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CrI.R.C.(MD)No.110 of 2025

29.01.2025