



Crl.O.P.(MD)No.2587 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :12.02.2025

CORAM :

THE HON'BLE MR.JUSTICE P. DHANABAL

Crl.O.P.(MD)No.2587 of 2025

Kumar

... Petitioner

Vs

The State Represented by,
The Sub Inspector of Police,
Chokkampatti Police Station,
Tenkasi District.
(Crime No.77 of 2024)

... Respondent

Prayer : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to the impugned order dated 09.01.2025 in CRL.R.No.32 of 2024 on the file of Principal District Court, Tenkasi and set aside the same by allowing this criminal original petition.

For Petitioner : Mr.S.Balamurugan

For Respondent : Mr.R.M.Anbunithi
Addl. Public Prosecutor (Crl. side)



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ORDER

This criminal original petition has been filed to set aside the order in CRL.R.No.32 of 2024 on the file of the Principal District Court, Tenkasi dated 09.01.2025, wherein, the Principal District Court, Tenkasi has dismissed the revision petition as no representation.

2. The learned counsel appearing for the petitioner would submit that he filed the criminal revision petition as against the order passed by the learned Judicial Magistrate, Tenkasi in Cr.MP.No.836 of 2024, the said case was posted on 09.01.2025. Due to non-appearance, the learned Principal District Judge, Tenkasi has dismissed the petition for non-prosecution. The Principal District Court, Tenkasi ought not to have dismissed the petition for non-prosecution, and ought to have disposed of the petition on merits.

3. In support of his contentions, the learned counsel for the petitioner has relied on the following cases:-



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- i. ***Petchimuthu vs. The State Rep. by the Sub Inspector of Police, Kulasekaranpattinam Police Station, Thoothukudi District, reported in Crl.R.C.(MD)No.267 of 2024;***
- ii. ***Bani Singh and Others vs. State of U.P., reported in (1996) 4 SCC 720.***

4. The learned Additional Public Prosecutor (Criminal Side) appearing for the respondent would submit that the petitioner has challenged the order of the learned Magistrate by declining the return of property / interim custody of the vehicle, passed in Cr.MP.No.836 of 2024. When the case was posted on 09.01.2025, there was no representation on the side of the petitioner and therefore, it was dismissed.

5. Heard the learned counsel on either side and perused the materials available on record.

6. This petition has been filed challenging the order passed by the learned Principal District Court, Tenkasi by dismissing the criminal revision petition for non-prosecution. As per Section 403 of Code of Criminal Procedure, 1973, the Court may, if it thinks fit, when exercising revisional powers, hear any party either personally or by pleader before any Court exercising its powers of revision.



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7. Therefore, the learned Principal District Judge, Tenkasi ought not to have dismissed the revision for non-prosecution and ought to have passed orders on merits. The learned counsel appearing for the petitioner also relied the Judgement of the Hon'ble Supreme Court in ***Bani Singh and Others vs. State of U.P., reported in (1996) 4 SCC 720*** as well as this Court in ***Petchimuthu vs. The State Rep. by the Sub Inspector of Police, Kulasekaranpattinam Police Station, Thoothukudi District, reported in Crl.R.C.(MD)No.267 of 2024***, On a careful perusal of the said Judgement it is clear that as far as the appeal and criminal revision are concerned, the case cannot be dismissed for non-prosecution and orders have to be passed on merits.

8. In this case also the learned Principal District Judge, Tenkasi has dismissed the petition for non-prosecution. Therefore, the order passed by the learned Principal District Judge, Tenkasi in CRL.R.No.32 of 2024 dated 09.01.2025 is not in accordance with law and the same is therefore liable to be set aside. Accordingly, CRL.R.No.32 of 2024 dated 09.01.2025 is set aside and the case has to be disposed of on merits.



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9. With the above directions, the criminal original petition is allowed.

No costs.

12.02.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes

rgm

To

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P. DHANABAL, J.

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