



Crl.RC(MD)No.976 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2025

CORAM :

THE HONOURABLE DR. JUSTICE R.N.MANJULA

Crl.R.C.(MD)No.976 of 2025

R.Lingarajan

... Petitioner

versus

1.State of Tamil Nadu

rep., by the Additional Superintendent of Police,
Vigilance and Anti-Corruption (OD),
Virudhunagar District.
Crime NO.3 of 2023

2.R.Murugaselvan

... Respondent

Prayer : Criminal Revision Case is filed under Section 438 and 442 of BNSS, 2023, to call for the records and set aside the order passed in Crl.M.P.No.201 of 2025 dated 15.04.2025 on the file of the learned Chief Judicial Magistrate cum Special Judge for Prevention of Corruption Act, Srivilliputhur, pertaining to Crime NO.3 of 2023 on the file of the respondent police and consequently direct to return the amount of Rs.4,35,000/- to the petitioner by allowing this revision petition.



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For Appellant : Mr.J.Anandkumar
for M.Saravanakumar

For R1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

—

This criminal revision case is filed challenging the order passed in Crl.M.P.No.201 of 2025, dated 15.04.2025, on the file of the learned Chief Judicial Magistrate cum Special Judge for Prevention of Corruption Act, Virudhunagar District at Srivilliputhur, pertaining to Crime No.3 of 2023 on the file of the respondent police and consequently, direct to return the amount of Rs.4,35,000/- to the petitioner by allowing this revision petition.

2. The petitioner is a third party, who claims to be the brother of the accused. He has filed a petition in Crl.M.P.No.201 of 2025 seeking return of a cash amount of Rs.4,35,000/-, which has been remanded before the Court in P.R.No.10 of 2023. The said petition was dismissed. Aggrieved over the same, this present criminal revision case is filed.



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3. The respondent/State has registered a case against the second respondent/accused for the offence under Section 7 of the Prevention of Corruption Act, 1988, as amended in 2018. The petitioner was doing business of real estate and construction in the name and style of VRL Construction and Contract. It was in the name of the petitioner and his wife, Nageshwari. As the petitioner is illiterate, he sought the assistance of his brother, Murugaselvan/accused, second respondent herein, who was working as a Special Sub-Inspector in the Civil Supplies Department, Virudhunagar, to take care of the matters relating to his son's medical admission and for that purpose, the petitioner had given a sum of Rs.4,35,000/- to Murugaselvan, on 10.06.2023. Subsequently, he came to know that the vehicle of Murugaselvan was searched by the respondent/ complainant, near Alagapuri Police Check Post and the amount given by the petitioner has been seized on the presumption that it was the amount allegedly received by Murugaselvan as 'monthly mamool' from various rice mill owners and others from Srivilliputhur and Rajapalayam area in Virudhunagar District. The said amount has also



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been remanded before the Court in P.R.No.10 of 2023 on 22.06.2023.

4. The petitioner has asserted that the amount of Rs.4,35,000/-, which was given to his brother, Murugaselvan, was legitimately withdrawn from the joint bank accounts held by himself and his wife. In fact an amount of Rs.10,00,000/- has been withdrawn from the account of the petitioner's wife maintained at Tamil Nadu Mercantile Bank, Nagerkovil, and the same was subsequently transferred to the companies' account. Out of the said amount, a sum of Rs.5,65,000/- has been disbursed towards the payment of labourers' salaries. The remaining balance of Rs.4,35,000/- was given by the petitioner to his brother, Murugaselvan, on 10.06.2023, for the purpose of facilitating his son's medical admission. However, this amount was subsequently seized by the respondent police during a search of Murugaselvan's vehicle on the presumption that it constituted 'bribe' monthly collected by Murugaselvan from various rice mill owners, who come under his jurisdiction.



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5. In fact, the case registered against Murugaselvan has been dropped and negative final report has been filed and the same has also been accepted by the learned Chief Judicial Magistrate, Srivilliputhur, vide its order dated 18.02.2025. However, the learned Chief Judicial Magistrate has chosen to transfer the sum of Rs.4,35,000/- remanded in P.R.No.10 of 2023 to the disciplinary authority. In fact, the petitioner has filed a miscellaneous petition before the Chief Judicial Magistrate Court, Srivilliputhur, in Cr.M.P.No.201 of 2025 for return of Rs.4,35,000/-, but the same was dismissed citing the order of the Court passed on 18.02.2025.

6. The learned Additional Public Prosecutor submitted that the above said amount represents unaccounted money found in the custody of Murugaselvan, which is alleged to have been received by him as illegal gratification from the rice mill owners of Rajapalayam. The alleged amount was seized during the course of investigation. In fact, the final report recommended initiation of disciplinary proceedings while dropping the criminal action on the ground that there was no sufficient



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evidence available to initiate criminal proceedings against the accused.

The said final report was accepted by the learned Chief Judicial Magistrate and order to that effect was passed on 18.02.2025. During that course, the Court has passed an order to transfer the case property i.e., a sum of Rs.4,35,000/- to the disciplinary authority.

7. It appears that the petitioner has filed a petition seeking return of the cash amount in question, only after the Court has ordered its transfer to the disciplinary authority. In fact, the petitioner, who claims to be the interested person and the owner of the property seized by the investigating agency, ought to have filed a petition before the Court prior to the seizure, in order to invoke its jurisdiction over the matter or at least challenged the order dated 18.02.2025, insofar it relates to the disposal of the property remanded in P.R.No.10 of 2023. The petitioner, without resorting to the above course, has filed a petition in Crl.M.P.No.201 of 2025, after the Court has already become *functus officio*.

8. The respondent, contended that the seized money constitutes an



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important and vital material evidence for the disciplinary proceedings before the tribunal. This Court is unable to comprehend such a submission for the reason that no disciplinary proceedings can be conducted by adopting any procedure contemplated under the Criminal Procedure Code (BNSS now). The disciplinary proceedings can adopt the Code of Civil Procedure to some extent.

9. Insofar as the custody and disposal of any case property arising out of a criminal case, particularly, when such property has been seized during the investigation and produced before the Court as a case property, the disposal of the same can be effected only by invoking the magisterial powers conferred upon a Court under Section 11 (3) of Cr.P.C., corresponding to 9(3) of BNSS. For a better clarity, Section 11(3) of Code of Criminal Procedure is extracted hereunder:

“11(3) The High Court may, whenever it appears to it to be expedient or necessary, confer the powers of a Judicial Magistrate of the first class or of the second class on any member of the Judicial Service of the State, functioning as a Judge in a Civil Court. “



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10. The power of judicial Magistrate has to be conferred to execute the functions of a judicial Magistrate. Even if a person has been appointed to the post of a Judge in a civil Court, he/she cannot exercise magisterial power, until such powers are expressly conferred by the High Court under Section 11(3) of Cr.P.C., corresponding to Section 9(3) of BNSS. Admittedly, the tribunal for disciplinary proceedings is not a criminal forum or the Presiding Officer of such tribunal cannot assume or exercise magisterial powers, unless such powers are conferred upon him or her. But it seems courts are simply returning the money to the disciplinary authority, though the courts are aware that the proceedings before the disciplinary authority is not in accordance with the criminal procedure.

11. Even the trap money recovered during the trap proceedings are not given to the complainants and it takes years for them to get back such money after the disciplinary proceedings are over. This has pushed the Government to issue G.O (3-D) No.10 Personnel & Administrative



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Reforms (Per-II) Department dated 27.08.1992 to return the trap money to the complainant on application subject to the execution of agreements in the prescribed format. By virtue of a later G.O.Ms.No.41 Personnel & Administrative Reforms (N) Department dated 30.01.1996 Rule 18 (d) has been inserted to the Tamil Nadu Civil Services (Discipline and Appeal) Rules 1955 for disposing the material objects at the time of passing final orders in the disciplinary proceedings. Rule 10 (bb) of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules 1955 is the corresponding provision which speaks passing orders for disposing the material objects when disciplinary proceedings are conducted by the tribunal.

12. In fact, the authorities faced difficulties to have the safe custody of the cash or other valuables during the proceedings or until the appeal time is over. The fact that the documents showing the action initiated and the properties handed over to the Court by the Vigilance and Anti Corruption after a criminal case was registered, themselves, are sufficient to be marked as exhibits to prove any facts concerning the



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proceedings, before the disciplinary authority. Hence, the objects handed over to the court need not be returned to the disciplinary authority for disposal. Once a final report is accepted or rejected by the court, it is for the court to pass orders only within the contours of the criminal case and by exercising the judicial powers and not to delegate such responsibility to the disciplinary authorities by simply handing over the same to them.

13. Once the court accepts the negative report the court has to return it either to the person from whom the money was recovered or to decide the rightful claimant if more than one makes claim for the return or to return to the prosecution agency with an order indicating whom to return.

14. The first respondent prosecution agency ought to have given notice to the person from whom the money is recovered when it chooses to file a negative report on the case, in order to enable the said person to file an application to the court to return the property. The court itself can issue notice to the person from whom the money was seized before



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passing any order for disposing the property. In case no one comes forward to claim the property also, the court needs to pass orders for either confiscation or any other order depending on the facts.

15. As the authorities faced a lot of inconvenience and had many doubts in disposing the material objects as per Rule 10 (bb), the Government has issued the G.O.Ms.No.50 Personnel and Administrative Reforms (N) Department dated 06.04.2017 to enable the Investigation Officer of the Directorate of the Vigilance and Anti Corruption to have the custody of the unaccounted money or material objects marked as exhibits during disciplinary proceedings. This is being done to shift the responsibility of having custody from the Government treasuries.

16. In any event, the disciplinary proceedings are not taken to decide who is the rightful owner of the unaccounted money or money recovered during investigation. All that is needed during the disciplinary proceedings is to take note or mark certain documents evidencing the proceedings initiated by the investigation agency for the purpose of



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deciding the preponderance in the disciplinary proceedings. For the said purpose photographs or any documents evidencing the recovery is sufficient. The production of the actual money, valuables or any other object is not necessary during the disciplinary proceedings. The disciplinary proceedings are independent of the criminal proceedings. Hence, even in the absence of any criminal case registered, to initiate the departmental proceedings for the charges of corruption or corrupt proceedings is still be possible. Hence the courts and the directorate of Vigilance and Anti Corruption should avoid the habit of entrusting the properties to the disciplinary authority. The departmental proceedings might only require the documents of recovery to be marked as exhibits. Production of material objects is required in criminal cases as the identity matters a lot, as the standard of proof required is beyond reasonable doubt. In the disciplinary proceedings to prove the misconduct alone is essential by sticking to the standard of preponderance of probabilities.

17. As it so happened in the instant case, if the property is transferred to the disciplinary authority by the court, it may not be



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possible for the disciplinary authority to pass any order for interim custody under Section 451 of Cr.P.C., corresponding to 497 of BNSS, by invoking the magisterial powers. The magisterial powers to pass an order to dispose the property at the end of the criminal case is more exhaustive than the power of the disciplinary authority of a disciplinary proceedings. For sake of clarity, the relevant provision under Sec 452 of Cr.P.C., is extracted hereunder:

“CrPC Sec. 452. Order for disposal of property at conclusion of trial.—(1) When an inquiry or trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(2) An order may be made under sub-section (1) for the delivery of any property to any person claiming to be entitled to the possession thereof, without any condition or on condition that he executes a bond, with or without securities, to the satisfaction of the Court, engaging to restore such property to the Court if the order made under sub-section (1) is modified or set aside on appeal or revision. (3) A Court of Session may, instead of itself making an order under sub-section (1), direct the property to be



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delivered to the Chief Judicial Magistrate, who shall thereupon deal with it in the manner provided in sections 457, 458 and 459.

(4) Except where the property is livestock or is subject to speedy and natural decay, or where a bond has been executed in pursuance of sub-section (2), an order made under sub-section (1) shall not be carried out for two months, or when an appeal is presented, until such appeal has been disposed of.

(5) In this section, the term “property” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise “

18. The Court ought to have visualized the consequences of its order of transferring the case property to the disciplinary authority. The Court could have either directed the investigating agency to return the property to the source from which it was recovered or the Court could have exercised its own powers to return the property directly to a person claiming ownership, after giving opportunity to all the claimants/parties,



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including the investigating agency. But the Court has proceeded to pass an order under Section 452 of Cr.P.C., by transferring the seized property to the disciplinary authority.

19. Insofar as the disciplinary proceedings are concerned, there may be some facts that need to be established against the accused/Murugaselvan in order to substantiate the charges framed against him. Incidentally, the fact that the investigating agency had recovered the money can also be a relevant fact. For this limited purpose, the disciplinary authority can at the best summon the investigating agency to testify before the tribunal.

20. It makes a lot of difference when any property is seized during the inspection or any action taken by the vigilance department or the committee of any department without registering a criminal case. In such case, the document or material if any collected can serve as an exhibit or Material Object during the disciplinary proceedings.

21. The learned Additional Public Prosecutor submitted that the



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Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) rules 1995 has got provision to dispose the material objects marked during the enquiry and after the appeal time is over, the officers concerned shall pass orders to dispose the Material Objects. The above rule might be applicable to those documents or objects if any found to be relevant for the purpose of enquiry and which are procured and made available without the help of any Investigation Agency.

22. Once a case is registered and the first respondent takes up the investigation and if any property is recovered, it becomes the criminal case property and an authority which has the magisterial power under Cr.P.C (BNSS) alone can pass the property disposal order.

23. The petitioner, who failed to file a petition for return of property before the learned Chief Judicial Magistrate, before the order passed by the court on 18.02.2025, could have filed appropriate proceedings seeking direction against the disciplinary authority to return the money to himself, by getting a supportive statement from the



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24. It may also be possible for the disciplinary authority to return the money to the investigating agency, who in turn, can return the money to the source from which it has been recovered, as the agency has chosen not to file any positive report on the case registered against the accused/ Murugaselvan.

25. It is relevant to note that once the investigative agency has decided not to file a charge sheet against the accused, then it does not have the authority to retain the property. If the first respondent claims that the property is a tainted property, then he could have filed a positive charge sheet against the concerned.

26. I feel it is sufficient to make the above observations by giving liberty to the petitioner to initiate appropriate proceedings for seeking direction against the disciplinary authority. As the custody of the property is now with the disciplinary authority, no order favoring the



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petitioner can be passed in this proceedings against the disciplinary authority without impleading them as a party.

27. With these observation, this Criminal Revision Case is disposed of.

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Index : Yes/No
NCC : Yes/No.

Rmk

To

- 1.The Chief Judicial Magistrate cum
Special Judge for Prevention of Corruption Act, Srivilliputhur.
- 2.The Additional Superintendent of Police,
Vigilance and Anti-Corruption (OD),
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.R.N.MANJULA, J.,

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