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Crl.R.C(MD)No.1184 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 10.01.2025

Pronounced on : 18.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1184 of 2024

Baskar

... Petitioner

Vs.

1.State through
The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
(In Crime No.271 of 2023)

2. Manivelu

... Respondent

*(R2 is impleaded as per order of the Court, dated
04.12.2024 in Crl.M.P(MD)No.13215 of 2024 in
Crl.R.C(MD)No.1184 of 2024)*

PRAYER : This Criminal Revision Case has been filed under Sections 438 and 442 of BNSS, 2023, to call for the records relating to the order passed by the Judicial Magistrate No.1, Kulithurai, Kanyakumari District in Crl.M.P.No.10759 of 2023 in Crime No.271 of 2023, dated 19.10.2023 and set aside the same and handover the property to the petitioner.

For Petitioner : Mr.S.Vikram

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



ORDER

WEB COPY This Criminal Revision Case is filed against the order, dated 19.10.2023, passed in Crl.M.P.No.10759 of 2023 on the file of the learned Judicial Magistrate No.1, Kulithurai, dismissing the petition filed by the petitioner U/s.451 & 457 of Cr.P.C. for return of Ashok Leyland Trailer bearing registration No.TN 04 AY 5295, which was seized by the respondent police in Crime No.271 of 2023.

2.The brief facts of the case:

It is alleged that on 17.07.2023, the revision petitioner had stolen 20 tyres from the defacto complainant's vehicle bearing registration No.TN 28 BC 4182 and transferred to the revision petitioner's vehicle/Ashok Leyland Trailer bearing registration No.TN 04 AY 5295. A case was registered in Crime No.271 of 2023 by the respondent police for an alleged offence under Section 379 of IPC. The vehicle bearing registration No.TN 04 AY 5295 was seized by the respondent police. Therefore, the petitioner filed the petition in Crl.M.P.No.10759 of 2023 before the learned Judicial Magistrate No.1, Kulithurai. The petition was resisted by the respondent police. After hearing both sides, the Judicial Magistrate No.1, Kulithurai dismissed the petition on 19.10.2023. Being



aggrieved by the said order, the revision petitioner has preferred this criminal revision case.

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3. 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.

4. The learned counsel appearing for the revision petitioner has submitted that the revision petitioner is doing his transport business by using his trailer and the same has been kept in the respondent police station for the past 2 years. The petitioner is depending on the vehicle for his livelihood. The alleged stolen 20 tyres were handed over to the defacto complainant and the respondent has also completed the investigation and laid charge sheet. The petitioner has no nexus with the alleged occurrence. The petitioner's vehicle was kept idle in open place from the date of seizure and the vehicle will get ruined by sunlight and rain and it would lose its value. The petitioner has no previous case.

5. The learned Government Advocate (Crl.side) for the respondent submitted the status report of the respondent police and contended that the revision petitioner is Accused No.1, who committed the offence of



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stolen of 20 tyres of the defacto complainant, which fetched value of Rs. 10 lakhs, though investigation was completed and final report filed, if the vehicle is returned to the revision petitioner he would change the physical features of vehicle and hence, the petition may be dismissed.

6. On hearing both sides, it is clear that the petitioner is arrayed as Accused No.1. It is the prosecution case that the petitioner is said to have stolen 20 tyres of the defacto complainant during the course of his employment through the driver of the defacto complainant. The seized Ashok Leyland Trailer belonged to the revision petitioner and the stolen tyres were transferred to his vehicle. So, the stolen property is 20 tyres. It is admitted that the 20 tyres were handed over to the defacto complainant and the final report has been laid by the respondent police after completion of investigation and the same has been taken on cognizance as C.C.No.120 of 2024 by the learned Judicial Magistrate No.1, Kulithurai. The petitioner's vehicle has been seized by the respondent police and has been kept in their custody for the past 2 years. It is alleged that his vehicle is in open place from the date of seizure. 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 by the police. Considering the overall facts and



circumstances of the case, this Court is inclined to allow this revision subject to conditions.

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7. Accordingly, this Criminal Revision Case is allowed, and the order, dated 19.10.2023 passed in Crl.M.P.No.10759 of 2023 on the file of the learned Judicial Magistrate No.1, Kulithurai, Kanyakumari District, is hereby set aside. The Ashok Leyland Trailer bearing registration Number TN 04 AY 5295 is ordered to be returned to the petitioner on interim custody on the following conditions.

(i) The petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five lakhs only) with two sureties for the like sum to the satisfaction of the learned Judicial Magistrate No.1, Kulithurai, Kanyakumari District;

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 Judicial Magistrate No.1, Kulithurai at the cost of the petitioner and the petitioner's signature to be obtained in the back side 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;

(iii) The petitioner shall deposit the original Registration Certificate of the vehicle bearing



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Registration No.TN-04-AY-5295 before the learned
Judicial Magistrate No.1, Kulithurai.

(vi) The petitioner shall produce the vehicle
before the learned Judicial Magistrate No.1, Kulithurai
as and when required.

(v) The petitioner shall not dispose or alienate or
change the physical features of the vehicle till the
disposal of the case.

18.02.2025

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

To

- 1.The Judicial Magistrate No.1,
Kulithurai, Kanyakumari District.
- 2.The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
(In Crime No.271 of 2023)
- 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.1184 of 2024

18.02.2025