



Crl.R.C(MD)Nos.1280 and 1281 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.12.2024

Pronounced on : 06.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)Nos.1280 and 1281 of 2024

Mohamed Nasurudeen

... Petitioner in both Crl.RCs

Vs.

The State rep. by
The Forest Range Officer,
Keelakarai,
Ramanathapuram District.
(WLO.No.5/2024)
(P.R.No.63/2024)

... Respondent in both Crl.RCs

PRAYER in Crl.R.C(MD)No.1280 of 2024: This Criminal Revision Case has been filed under Section 438 r/w 442 of BNSS, to call for the records pertaining to the order, dated 18.06.2024 made in Cr.M.P.No.2482 of 2024 on the file of the Judicial Magistrate Court No.1, Ramanathapuram and set aside the order and direct the respondent herein to grant the interim custody of the vehicle viz., Chassis No.ME3U3S5C1KA428582 Royal Enfield Registration No.TN-65-AK-0025 which has been seized by the respondent herein in WLO.No.5/2024.



Crl.R.C(MD)Nos.1280 and 1281 of 2024

PRAYER in Crl.R.C(MD)No.1281 of 2024: This Criminal Revision Case has been filed under Section 438 r/w 442 of BNSS, to call for the records pertaining to the order, dated 18.06.2024 made in Cr.M.P.No.2623 of 2024 on the file of the Judicial Magistrate Court – 1, Ramanathapuram and set aside the order and direct the respondent herein to grant the interim custody of the vehicle viz., engine No.F8BIN5107316 Four Wheeler Bearing Registration No.TN-65-AH-7880 which has been seized by the respondent herein in WLOR.No.5/2024.

In Both Petitions:-

For Petitioner : Mr.K.M.Karunakaran

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

COMMON ORDER

The Criminal Revision Case in Crl.R.C.(MD) No.1280 of 2024 is filed against the order, dated 18.06.2024, passed in Crl.M.P.No.2482 of 2024 on the file of the Judicial Magistrate Court No.1, Ramanathapuram and to set aside the same and to direct the learned Judicial Magistrate to release the two wheeler bearing registration No.TN-65-AK-0025 to the revision petitioner on interim custody,

2. The Criminal Revision Case in Crl.R.C.(MD) No.1281 of 2024 is filed against the order, dated 18.06.2024, passed in Crl.M.P.No.2623 of 2024 on the file of the Judicial Magistrate Court No.1, Ramanathapuram



and to set aside the same and to direct the learned Judicial Magistrate to release the four wheeler bearing registration No.TN-65-AH-7880 to the revision petitioner on interim custody

3.The brief facts of the case:

The two wheeler/Royal Enfield bearing registration No.TN 65 AK 0025 and four wheeler Maruti Omni bearing registration No.TN 65 AH 7880 belonged to the petitioner. It is alleged that on 22.04.2024 the respondent police on suspicion search, it is found that the vehicles were utilized for illegal smuggling of 700 kg sea cucumbers through Ambulance and the vehicles were seized and the accused arrested. A case was registered in Crime No.5 of 2024 U/s.2, 9, 39(1)(a)(b)(d), 39(3)(a)(b)(c), 49-A(a)(b), 50 and 51 of Schedule I Part - F (Echinodermata) of Wildlife Protection Act. The vehicles were remanded before the concerned Judicial Magistrate Court. The petitioner filed two separate petitions in Crl.M.P.No.2482 of 2024 and Crl.M.P.No.2623 of 2024 before the Judicial Magistrate Court No.1, Ramanthapuram for interim custody of the vehicles and the said petitions were dismissed.

4. Aggrieved by that order, the petitioner has come forward with these present criminal revision cases.



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5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

6. The learned counsel appearing for the revision petitioner has submitted that the Royal Enfield and Maruti Omni car in question belonged to the petitioner. The vehicles were not used for the alleged crime and there is no connection for the same. The seized vehicles are kept idle in open yard by the respondent police from the date of seizure. If the vehicles are in open place, due to exposure of sun and rain, the value of vehicles would get deteriorated. The petitioner is ready to abide any stringent condition and therefore, the interim custody of the vehicle may be granted to the petitioner.

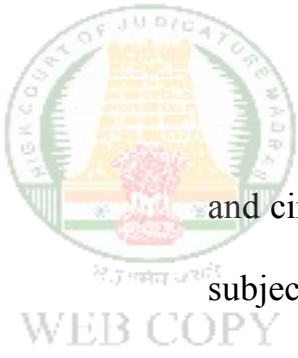
7. The learned Government Advocate (Criminal Side) appearing for the respondent has filed a separate counter and submitted that the vehicles were used for illegal smuggling of 700 kg of banned sea cucumber through Ambulance. Moreover, the two wheeler was already involved in a case relating to smuggling of ganja in respondent police station Crime No.93 of 2022. The petitioner's vehicles were seized upon the case registered and remanded before the concerned Court in RPR.No.63/2024. No confiscation



proceeding was initiated. Hence, objected to hand over the vehicles on interim custody.

8. On hearing and perusal of records, it is clear that the petitioner is the owner of the two wheeler/Royal Enfield bearing registration No.TN 65 AK 0025 and four wheeler/Maruti Omni car bearing registration No.TN 65 AH 7880 as seen from the copy of RC book. There is no dispute that the vehicles were seized by the respondent police, in this case, registered for the alleged offences U/s.2, 9, 39(1)(a)(b)(d), 39(3)(a)(b)(c), 49-A(a)(b), 50 and 51 of Schedule I Part F (Echinodermata) of Wildlife Protection Act. It is admitted that the vehicles were remanded in RPR.No. 63/2024 before the Judicial Magistrate Court No.1, Ramanathapuram.

9. The petitioner says that his vehicles were not used for the alleged offence whereas the respondent says that the same were used for the commission of offence. It can be proved only after thorough investigation and after adducing evidence. The vehicles are kept in open place. If the vehicles are 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. 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 these revisions subject to conditions.

10. Accordingly, these Criminal Revision Cases are allowed, and the order dated 18.06.2024 passed in Crl.M.P.No.2482 of 2024 and in Crl.M.P.No.2623 of 2024 on the file of the Judicial Magistrate Court No.1, Ramanathapuram, are hereby set aside. The two wheeler/Royal Enfeild bearing registration No.TN 65 AK 0025 and four wheeler/Maruti Omni car bearing registration No.TN 65 AH 7880 are ordered to be returned to the petitioner on interim custody subject to the confiscation proceedings to be taken by the concerned department or by the Court on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties for the like sum to the satisfaction of the learned Judicial Magistrate No.1, Ramanathapuram in respect of two wheeler/Royal Enfield bearing registration No.TN 65 AK 0025;

(ii) The petitioner shall execute a bond for a sum of Rs.3,00,000/- (Rupees Three Lakhs only) with two sureties for the like sum to the satisfaction of the learned Judicial Magistrate No.1, Ramanathapuram in respect of four wheeler/Maruti Omni car bearing registration No.TN 65 AH 7880;



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iii) The vehicles 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, Ramanathapuram 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;

(iv) The petitioner shall deposit the original Registration Certificate of the respective vehicles before the Judicial Magistrate Court No.1, Ramanathapuram;

(v) The petitioner shall produce the vehicles before the learned Judicial Magistrate No.1, Ramanathauram once in a month i.e., on the first working day of every month and as and when required;

(vi) The petitioner shall not dispose or alienate or change the physical features of the vehicles till the disposal of the case and the petitioner shall cooperate with the trial Court for disposal of the case.

06.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Judicial Magistrate Court No.1,
Ramanathapuram.
- 2.The Forest Range Officer,
Keelakarai,
Ramanathapuram District.
(WLOR.No.5/2024)
(P.R.No.63/2024)
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

**Pre - Delivery Orders made in
Crl.R.C(MD)Nos.1280 and 1281 of 2024**

06.02.2025