

Crl.R.C.(MD) No.1248 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.1248 of 2024

Prakash Narayanan

: Petitioner

Vs.

The State of Tamil Nadu,
Represented through
the Sub Inspector of Police,
Puliangudi Police Station,
Tenkasi District.
[Crime No.309 of 2024].

: Respondent

PRAYER : This Criminal Revision Petition has been filed under Sections 438 read with 442 of B.N.S.S., to call for the records relating to the impugned order passed by the Learned Additional District Munsif cum Judicial Magistrate, Sivagiri, in Crl.M.P. No.2254 of 2024 dated 30.09.2024 and set aside the same and consequently order to return the Petitioner's Mobile Phone [Apple Cellphone – PR No.34 of 2024].

For Petitioner : M/s.Rahul M. Shankar, for
Shaazim Shagar

For Respondent : M/s.M.Aasha,
Government Advocate (Crl. Side)



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ORDER

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The Criminal Revision is filed against the order passed in CrI.M.P. No.2254 of 2024 dated 30.09.2024 on the file of the Learned Additional District Munsif cum Judicial Magistrate, Sivagiri, dismissing the Petition filed under Section 451 of Criminal Procedure Code, for return of the Petitioner's Mobile[Apple Cellphone] which was remanded in P.R. No.34 of 2024.

2. It is not in dispute that the respondent police has recovered the Petitioner's Apple Cellphone in connection with the Crime No.309 of 2024 for the alleged offence under Sections 316(2), 318(4) of B.N.S.S. against two persons including the Petitioner herein, who was arrayed as A-2.

3. It is also not in dispute that after recovering the Apple Cellphone, the respondent police has produced the same before the concerned Jurisdictional Magistrate Court and the same came to be remanded in P.R.No.34 of 2024.



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4. Heard the Learned counsel appearing for the petitioner and the Learned Government Advocate (Criminal Side) appearing for the respondent police.

5. The Learned Government Advocate (Criminal Side) appearing for the respondent police would submit that based on the confession statement given by the Petitioner/A-2 two other persons were impleaded. She would further submit that after remanding the property before the concerned Jurisdictional Magistrate Court, the respondent police gave a requisition letter, dated 27.01.2025 to send the same to the Forensic Laboratory for obtaining a report and as per the said request, the Learned Jurisdictional Magistrate sent the Cellphone on the same day to the Regional Forensic Science Laboratory, Madurai, and the report is awaited.

6. In the meanwhile, the Petitioner herein has filed an application in Crl.M.P. No.2254 of 2024 before the concerned Jurisdictional Magistrate Court, seeking interim custody of the Apple Cellphone. The Learned Magistrate after considering the objections raised by the prosecution, has dismissed the petition on the ground that the property is in dispute is a main tool in the case



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and the entire evidence will be destroyed if the property is returned to the petitioner and that the Cellphone was already sent to the Forensic Laboratory.

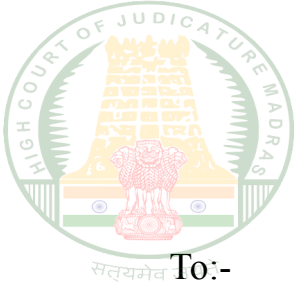
7. Considering the facts and circumstances of the case and also considering the submission made on either side, this Court is inclined to set aside the impugned dismissal order passed by the Learned Magistrate.

8. In the result, the impugned dismissal order passed in CrI.M.P. No.2254 of 2024 dated 30.09.2024 on the file of the Learned Additional District Munsif cum Judicial Magistrate, Sivagiri, is hereby set aside. The Learned Magistrate is directed to consider the Petitioner's application afresh, after obtaining the report from the Regional Forensic Science Laboratory, Madurai, in accordance with Law.

9. With the above direction, this Criminal Revision is disposed off.

17.02.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
KSA



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To:-

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1. The Additional District Munsif cum Judicial Magistrate Court,
Sivagiri.
2. The Sub Inspector of Police,
Puliangudi Police Station,
Tenkasi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

KSA

Order made in
CrI.R.C.(MD)No.1248 of 2024

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