



Crl.R.C.(MD)No.32 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED : 29.01.2025**

CORAM

**THE HONOURABLE MR.JUSTICE P.VADAMALAI**

Crl.R.C.(MD)No.32 of 2025

Sekar

... Petitioner

Vs.

1.State rep.by

The Sub Inspector of Police,  
Dhalavaipuram Police Station,  
Virudhunagar District.  
(Crime No.174 of 2024)

2.Jeyamari

3.Shanmugavel

... Respondents

(The 2<sup>nd</sup> and 3<sup>rd</sup> respondents  
have given up)

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to call for the records relating to the judgment of the learned Judicial Magistrate, Rajapalaiyam dated 23.08.2024 made in Crl.M.P. No.7618 of 2024 and set aside the same.

For Petitioner : Mr.V.Palpandi

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



Crl.R.C.(MD)No.32 of 2025

WEB COPY

### **ORDER**

The Criminal Revision Case is directed against the order, dated 23.08.2024, passed in Crl.M.P.No.7618 of 2024 on the file of the Judicial Magistrate, Rajapalaiyam dismissing the petition filed under Section 497(2) of BNSS.

2. The petitioner claims to be the owner of the vehicle JCB bearing Registration No.TN-67-AW-3193. On 06.07.2024, the respondent police seized the said vehicle on the ground that the vehicle was used for digging river sand without any valid license or permit, and registered a case in Crime No.174 of 2024 for the offence under Section 303(2) of BNS r/w Section 21(4) of the Mines and Minerals (Development & Regulation) Act.

3. It is not in dispute that the petitioner has approached the Judicial Magistrate, Rajapalaiyam by filing a petition for the return of vehicle bearing registration No.TN-67-AW-3193 in Crl.M.P.No.7618 of 2024, and the Judicial Magistrate, Rajapalaiyam vide his order, dated



Crl.R.C.(MD)No.32 of 2025

23.08.2024, has dismissed the said petition. Aggrieved by the order of dismissal, the petitioner has now come forward with the present revision.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the 1<sup>st</sup> respondent.

5. The learned counsel appearing for the petitioner would submit that the vehicle, JCB bearing Registration No.TN-67-AW-3193, was purchased by the petitioner from one Jeyamari, S/o.Vairavan, who is the 2<sup>nd</sup> respondent herein, and the vehicle is presently owned by the petitioner. The said V.Jeyamari himself submitted before the trial Court that he sold the aforesaid vehicle to the petitioner and raised no objection for granting interim custody of the vehicle to the petitioner and the said facts were recorded by the learned Judicial Magistrate in her order dated 23.08.2024. The vehicle is with the police for the past six and a half months, and if the vehicle is kept in open place, the value of the said vehicle will get deteriorated. Further, he would submit that the original RC Book of the vehicle is already under the custody of the learned



Crl.R.C.(MD)No.32 of 2025

WEB COPY

Judicial Magistrate, Rajapalaiyam in P.R.No.56 of 2021. Therefore, interim custody of the vehicle may be granted to the petitioner.

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the vehicle JCB bearing Registration No.TN-67-AW-3193 is presently owned by the petitioner, and the said vehicle was used for digging river sand illegally. He would also submit that the petitioner's vehicle was already involved in one previous case, which was registered in Crime No.191 of 2021. The said vehicle was seized by the 1<sup>st</sup> respondent police and thereafter, interim custody was granted to one Jeyamari/2<sup>nd</sup> respondent herein, who was the owner of the said vehicle at the time of occurrence, by the learned Judicial Magistrate, Rajapalaiyam, for which original RC Book of the vehicle was produced by him before the said Court and the same is now under the custody of the said Court in P.R.No.56 of 2021. He would also submit that the value of the vehicle is Rs.10,00,000/- (Rupees Ten Lakhs only) and the model of the vehicle is of the year 2012.



Crl.R.C.(MD)No.32 of 2025

WEB COPY

7. In this case, the vehicle was seized on 06.07.2024. The vehicle is kept in the open place from 06.07.2024 onwards. Further, if the vehicle is 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 2<sup>nd</sup> and 3<sup>rd</sup> respondents have already appeared in-person before this Court and did not raise any objection. They have also submitted a letter, dated 06.01.2025, to the Registry stating that they have no objection to give the vehicle on interim custody to the petitioner. Considering the overall facts and circumstances of the case, and also considering the fact that no objection has been tendered by the 2<sup>nd</sup> and 3<sup>rd</sup> respondents, this Court is inclined to allow this revision by following the principle of law laid down by the Honourable Supreme Court, in the case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat [2002 (10) SCC 283]***.

8. Accordingly, this Criminal Revision Case is allowed, and the order dated 23.08.2024 passed, in Crl.M.P.No.7618 of 2024, by the Judicial Magistrate, Rajapalaiyam is hereby set aside and the vehicle, viz. JCB bearing Registration No.TN-67-AW-3193, is ordered to be returned



Crl.R.C.(MD)No.32 of 2025

WEB COPY

to the petitioner on interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions :

(i) the petitioner is directed to deposit a sum of **Rs.40,000/- (Rupees Forty Thousand only)** as non-refundable deposit for the said vehicle to the credit of the District Mineral Foundation Trust, Virudhunagar District;

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.7,00,000/- (Rupees Seven Lakhs only) with two sureties for a likesum to the satisfaction of the Judicial Magistrate, Rajapalaiyam;

(iii) 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 Judicial Magistrate, Rajapalaiyam at the cost of the petitioner and the petitioner's signature to be obtained in the backside of the photographs, and the said photographs and CD shall be kept in the case



Crl.R.C.(MD)No.32 of 2025

bundle for the purpose of marking them as material objects during trial;

(iv) the petitioner shall not alienate and shall not alternate the physical features of the vehicle till the disposal of the case; and

(v) the petitioner shall produce the vehicle before the Court and before the 1<sup>st</sup> respondent police as and when required.

9. Since the original RC Book of the aforesaid vehicle is already under the custody of the Judicial Magistrate, Rajapalaiyam, the same can be kept until disposal of the present case also.

**29.01.2025**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
mkn



WEB COPY



Crl.R.C.(MD)No.32 of 2025

**P.VADAMALAI, J.**

mkkn

To

- 1.The learned Judicial Magistrate,  
Rajapalaiyam.
- 2.The Sub Inspector of Police,  
Dhalavaipuram Police Station,  
Virudhunagar District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

**Crl.R.C.(MD)No.32 of 2025**

**29.01.2025**