



Crl.O.P(MD)No.23159 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.O.P(MD)No.23159 of 2024

Ambikapathy

... Petitioner

Vs.

1.State of Tamil Nadu rep. by
The Sub Inspector of Police,
Melur Police Station,
Madurai District.
(Crime No.427 of 2024)

2.B.Pandiselvi

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to set aside the return endorsement made by the Judicial Magistrate, Melur in surety Memo, dated 16.12.2024 and further directing the Judicial Magistrate, Melur to accept the surety Memo as directed by this Court in Crl.R.C(MD)No.1071 of 2024.

For Petitioner : Mr.P.Surliraja

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



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ORDER

This Criminal Original Petition has been filed to set aside the return endorsement made in surety Memo, dated 16.12.2024 by the learned Judicial Magistrate, Melur and directing the learned Judicial Magistrate to accept the surety Memo as per the order of this Court passed in Crl.R.C(MD)No.1071 of 2024, dated 10.12.2024.

2. The learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle bearing Registration No.TN-50-T-2397 Tractor along with un-numbered Tailor and the respondent police has registered a case in Crime No.427 of 2024 for the alleged offence under Section 303(2) of BNS Act, 2023 and 21(5) of Mines and Minerals (Development and Regulations) Act, 1957 against the petitioner. Hence, the petitioner has filed a petition under Sections 497 and 503 of the BNSS Act, 2023 for return of vehicle in Cr.M.P.No.343 of 2024 before the learned Judicial Magistrate, Melur and the same was dismissed on 30.09.2024. Challenging the said order, the petitioner has filed Criminal Revision Case before this Court in Crl.R.C(MD)No.1071



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of 2024 and the same was allowed by this Court vide order, dated

10.12.2024 on the following conditions:

"(i) The petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non-refundable deposit for the said vehicle to the credit of the District Mineral Foundation Trust, Madurai District;

(ii) The petitioner shall execute a bond for a sum of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) with two sureties each for a alike sum to the satisfaction of the learned Judicial Magistrate, Melur;

(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 learned Judicial Maistrate, Melur 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 bundle for the purpose of marking them as material objects during trial;

(iv) The petitioner shall register the vehicle in his name by producing the same before the concerned registering authority and shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate, Melur and the said process shall be completed within a period of one month from the date of



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release of the vehicle;

(v) The petitioner shall produce the vehicle in question as and when required by the courts below or by the respondent police;

(vi) The petitioner shall co-operate with the trial court for disposal of the case and also to complete the confiscation proceedings, if any taken."

3. Further, the learned counsel for the petitioner would submit that as per the first condition imposed by this Court, the petitioner deposited a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of the District Mineral Foundation Trust, Madurai District on 12.12.2024. Further, the petitioner has presented the surety Memo before the learned Judicial Magistrate, Melur on 16.12.2024 and the same was returned by the learned Judicial Magistrate, Melur with an endorsement stating that "own surety not produced. Hence, it is returned".

4. The learned counsel for the petitioner further submitted that the learned Judicial Magistrate, Melur ought not to have returned the surety Memo on the ground that own surety is not produced, since the petitioner



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has produced two sureties. Hence, the said return endorsement may be set aside and the learned Judicial Magistrate may be directed to accept the sureties and release the vehicle as per the order of this Court passed in Crl.R.C(MD)No.1071 of 2024, dated 10.12.2024.

5. On perusal of records, it is found that the petitioner has deposited a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of the District Mineral Foundation Trust, Madurai District on 12.12.2024 and he produced two sureties under Judicial Form No.46 along with Solvency Certificate, House tax receipt, Aadhaar Card and Family Card, in order to comply with the direction of this Court to execute a bond for a sum of Rs.2,50,000/- (Rupees Two lakhs Fifty Thousand only) with two sureties. The learned Judicial Magistrate, Melur ought to have verified the sureties and accept the sureties, if it is otherwise in order. However, the learned Magistrate has returned the surety Memo as "own surety not produced. Hence, it is returned", which is unwarranted. The petitioner need not to produce own surety. His presence along with two sureties with sufficient documents of sureties are enough to execute a bond. The learned judicial Magistrate



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need not insist the own surety for the petitioner. Hence, this Court is inclined to allow this Criminal Original Petition.

6. In the result, this Criminal Original Petition is allowed.

The return endorsement made by the learned Judicial Magistrate, Melur in the surety Memo, dated 16.12.2024 is set aside and the learned Judicial Magistrate, Melur is directed to verify and accept the sureties, if it is otherwise in order and release the vehicle as per the order of this Court passed in Crl.R.C(MD)No.1071 of 2024, dated 10.12.2024.

31.01.2025

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

1.The Judicial Magistrate, Melur

2.The Sub Inspector of Police,
Melur Police Station,
Madurai District.
(Crime No.427 of 2024)

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Order Made in
Crl.O.P(MD)No.23159 of 2024

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