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CRL OP No. 4995 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 08-06-2026**

CORAM

**THE HON'BLE MR JUSTICE M. NIRMAL KUMAR**

**CRL OP No. 4995 of 2026**

**AND**

**CRL MP NO. 3657 OF 2026,**

**CRL MP NO. 3663 OF 2026**

Matheshwaran

..Petitioner(s)

Vs

The State of Tamil Nadu  
Represented by The Sub Inspector of Police  
Chetpet Police Station,  
Thiruvannamalai District.

..Respondent(s)

Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to call for the records in PRC No.146 of 2025 on the file of Judicial Magistrate, Polur and quash the same

For Petitioner(s):

Mr.G.R.Hari  
for Mr.M.Raja

For Respondent(s):

Mr.R.Rajasekaran,  
Counsel for Government of Tamil Nadu  
(Criminal Side)

### **ORDER**

The petitioner/accused facing trial in P.R.C.No.146 of 2025 on the file of the Judicial Magistrate Court, Polur, for the offences under Sections 275, 123 and 62 BNS r/w. Section 6(a) r/w. Section 24(1) of the Cigarettes and Other



Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, has filed the present quash petition.

2.The case of the prosecution is that, on 12.10.2024, when the respondent Police were keeping a watch on the movement of gutka and other tobacco products, they received a secret information that the petitioner was selling banned tobacco products in his Bunk shop in Maharajapettai Street, Devikapuram Village. Based on the same, the respondent Police had gone there and conducted a search. During the search, they seized (1) 15 packets of HANS each weighing 20 grams – 36 bundles – total weighing 10.800 kg; (2) 8 packets of Cool Lip each weighing 12.6 grams – 16 bundles – total weighing 1.612.8 kg; (3) 30 packets of VIMAL Pan Masala each weighing 2.5 grams – 39 bundles – total weighing 2.925 kg; (4) 30 packets of V1 each weighing 0.35 gram – 39 bundles – total weighing 1.170 kg, total banned tobacco products of 16.507.8 kg. Hence, the case.

3.After conclusion of investigation, the Investigating Officer has filed the charge sheet in P.R.C.No.146 of 2025 before the Judicial Magistrate Court, Polur, by listing 3 witnesses, viz., L.W.1, L.W.2 who are the Grade-II Police Constable and Grade-I Police Constable respectively and L.W.3 who is the Sub-Inspector of Police, along with other collected materials. Challenging the same,



the present Criminal Original Petition has been filed.

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4. Learned counsel for the petitioner/accused submitted that the respondent Police, while keeping a watch on the nearby Maharajapettai Street on the movement of tobacco products, on secret information, came to the petitioner's Bunk shop. He submitted that there have been several seizures in this case and admittedly, the seizures were in public road during evening hours, however, the seizures were not made in the presence of any public witness. Therefore, he submits that the seizure itself is highly doubtful. He further submitted that the seizure of the tobacco products was not intimated and the seized products were not produced before the Magistrate Court immediately. He submits that the tobacco products have been produced before the Court only on 20.01.2026. For two years, the chain of custody of tobacco products has not been recorded. Hence, he submits that the seizure and retention of seized tobacco products are highly doubtful. He further submitted that, though the respondent Police claims that the seized tobacco products are poisonous and injurious to health, no sample has been taken and forwarded for forensic examination. Hence, it is his contention that none of the offences would get attracted. He further submitted that the petitioner is an MBA Graduate, who completed his graduation in First Class, and he was only helping his parents in running the Bunk shop. He is a first time Graduate and he has got no knowledge about all the items which were available in the Shop. The petitioner

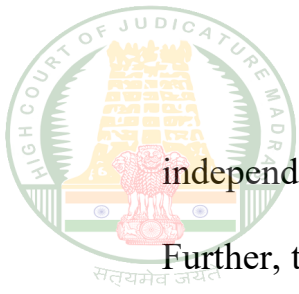


was available in the Shop only as a stop gap arrangement to help his parents.

The petitioner has not no previous case. Hence, the learned counsel prays for quashing of the criminal proceedings as against the petitioner.

5.Learned Government Counsel (Criminal Side) appearing for the respondent Police submitted that the respondent Police, on secret information, had visited the petitioner's Bunk shop, wherein, the petitioner was found in the shop. When enquired, he was giving contradictory statements. Therefore, a search was conducted and from the Shop, huge quantity of tobacco products was seized under the cover of mahazar on 12.10.2024 at about 07.00 p.m. Thereafter, on the same day, Form-95 was prepared and it was produced before the Magistrate Court. At the time of remanding the accused, the learned Magistrate had returned all the properties for the reason that the Court has got no space to receive and retain the tobacco products and for that reason, it took some time and later, the properties was taken on record and a Case Property Number was given on 20.01.2026. He further submitted that the petitioner was selling the tobacco products in retail. Therefore, he prays for dismissal of this quash petition.

6.Considering the submissions made by the learned counsel on either side and on perusal of materials available on record, it is seen that, in this case, admittedly, the seizure has taken place in a busy public road. However, no



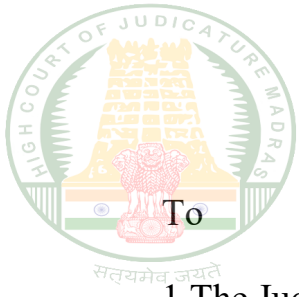
independent witness has been examined for seizure or arrest of the accused.

Further, the arrest of the accused was not informed to his parents and the seized tobacco products have not been sent for forensic examination to confirm whether there is any obnoxious or poisonous substance available in the tobacco products seized by the Police. Therefore, the seizure and recovery in this case becomes highly doubtful. Further, the three witnesses listed in the final report (L.W.1 to L.W.3) are only Police personnel, however, no other independent witness has been examined in this case. It is also to be seen that the petitioner is an MBA Graduate, who was sitting in his father's Bunk shop as a stop gap arrangement to relieve his father for a short period. Hence, this Court is of the view that continuation of criminal proceedings as against the petitioner, is nothing but an abuse of process of Court and only a futile exercise. Therefore, this Court is inclined to quash the proceedings as against the petitioner.

7. Accordingly, this Criminal Original Petition is allowed and the proceedings in P.R.C.No.146 of 2025 on the file of the Judicial Magistrate Court, Polur, is quashed and the petitioner/accused is discharged of all the charges. Consequently, connected miscellaneous petitions are closed.

**08-06-2026**

Index: Yes/No  
Speaking/Non-speaking order  
Neutral Citation: Yes/No  
MKN



To

1. The Judicial Magistrate,  
Polur.
2. The Sub Inspector of Police  
Chetpet Police Station,  
Thiruvannamalai District.
3. The Public Prosecutor,  
High Court, Madras.



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**M.NIRMAL KUMAR J.**

**MKN**

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