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CRL OP No. 5991 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-03-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 5991 of 2026

Selvakumari

..Petitioner(s)

Vs

The State Rep By, The Inspector of Police
Katpadi Police Station,
Vellore District.
Crime No.350 of 2025

..Respondent(s)

Prayer: This criminal original petition has been filed under Section 528 of BNSS, calling for the records relating to the impugned docket order dated 28.11.2025 passed by the learned Special Judge, Special Court for Exclusive Trial EC and NDPS Act Cases at Salem in Crl.MP.Sr.No.3041 of 2025 and set aside the same and consequently direct the Special Judge, Special Court for Exclusive trial EC and NDPS Act cases at Salem to number the Crl.MP.Sr.No.3041 of 2025.

For Petitioner(s):

Mr.S.Dilli Ganesh

For Respondent(s):

Mr.Leonard Arul Joseph Selvam,
Additional Public Prosecutor

ORDER

This criminal original petition has been filed seeking to quash the impugned docket order dated 28.11.2025 passed by the learned Special Judge, Special Court for Exclusive Trial EC and NDPS Act Cases at Salem in



Crl.MP.Sr.No.3041 of 2025 and to consequently direct the learned Judge to number the Crl.M.P.No.Sr.No.3041 of 2025.

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2. The case of the prosecution is that, on 14.09.2025 at about 6.00 a.m., the respondent police found the accused in a suspicious manner along with a two wheeler bearing Registration No.TN 12 BC 6994 (R15), and upon inspection, it was found that he was involved in illegal transportation of 2 grams of Methamphetamine. Thereafter, the accused was arrested and an FIR in Crime No.350 of 2025 was registered for the offence under Section 8(c), 20(b), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985. The said vehicle along with two mobile phones were also seized and taken into custody by the respondent police on the very same day.

2.1. The petitioner being the owner of mobile phone viz., VIVO V2427, filed an application before the Special Court for Exclusive Trial EC and NDPS Act Cases at Salem in Crl.M.P.Sr.No.3041 of 2025, seeking interim custody of the said mobile phone, wherein the learned Magistrate has returned the said petition by holding as under:

“1. In view of the ruling reported in CDJ 2025 MHC 4884 (Amutha and Others Vs State) and judgment passed by the Madurai Bench of Madras High Court in Crl.A.(MD) No.192/2024, dated 09.07.2025 and Honorable Madras High Court's Circular Roc.No.70917-A/2025/F1(P.Dis No.84/2025) dated 01.09.2025, how this petition is maintainable before this Court? To be explained.

2. Petition to be filed before Drug Disposal Committee.

Hence, returned.”



3. Challenging the same, the petitioner has come up with the present criminal original petition. In support of his contention, the learned counsel for the petitioner relied upon the decision of the Hon'ble Apex Court in the case of ***Denash Vs. The State of Tamil Nadu*** in ***SLP (Crl.) No(s).8698 of 2025***, wherein the Hon'ble Apex Court had ordered for release of vehicle. Accordingly, he prayed for setting aside the impugned docket order dated 28.11.2025 passed in Crl.MP.Sr.No.3041 of 2025 and to consequently, return the mobile phone viz., VIVO V2427 seized by the respondent police in connection with Crime No.350 of 2025, in favour of the petitioner.

4. The learned Additional Public Prosecutor submitted that the Trial Court had referred to ROC.No.70917-A/2025/F1 P.Dis.No.84/2025 and returned the petition. However, he fairly submitted that the Supreme Court's directions are otherwise. He further submitted that the decision to return the property or reject the claim is within the discretion of the Trial Court. In all fairness, following the principles of *audi alteram partem*, the petition ought to have been entertained, heard, and thereafter appropriate orders to be passed.

5. Considering the above submissions made by the learned counsel on either side, it is seen that this Court in Crl.OP.No.33623 of 2025 by order dated 11.12.2025, had already deprecated the practice of returning the petitions



without following the Supreme Court guidelines. More so, not even entertaining the petition is not proper in law.

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6. In view of the above and also considering the facts and circumstances of the case, particularly the fact that the petitioner is not an accused, this Court is inclined to allow this petition.

7. Accordingly, the impugned docket order, dated 28.11.2025 made in Crl.MP.Sr.No.3041 of 2025 passed by the learned Special Judge, Special Court for Exclusive Trial EC and NDPS Act Cases at Salem, is set aside.

8. Registry is directed to return the original papers to the learned counsel for the petitioner as expeditiously as possible, enabling the petitioner to re-present the same before the Court below.

9. Upon re-presentation of such petition by the petitioner, the learned Special Judge, Special Court for Exclusive Trial EC and NDPS Act Cases at Salem, shall consider the same on merits and in terms of the judgment of the Hon'ble Apex Court in Denash's case (*supra*) and pass appropriate orders within a period of two weeks from the date of re-presentation of the petition under Sections 497 r/w. 503 of BNSS, by the petitioner.



10. With the above directions and observations, this criminal original petition stands allowed.

23-03-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To:

1. The Inspector of Police

Katpadi Police Station,

Vellore District.

Crime NO.350 of 2025

2. The Special Judge,

Special Court for Exclusive Trial EC and NDPS Act Cases at Salem.

3. The Public Prosecutor,

High Court, Madras.



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M.NIRMAL KUMAR, J.

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