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CRL OP No. 15174 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-06-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 15174 of 2026

Karthik raja
S/o.Jegatheeswaran,
No.33, Amarjothi Pon Nagar,
3rd street, Vijayapuram,
Kangeyam Road, Tiruppur.

..Petitioner(s)

Vs

The Inspector of Police,
Tiruppur South Police Station,
Tiruppur.
Cr.NO.716/2025.

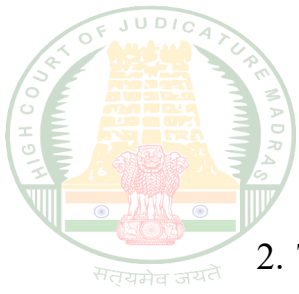
..Respondent(s)

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the returned docket order dated 27.1.2026 in unnumbered C.M.P.Sr.380 of 2026 on the file of the Essential Commodities cum Special Court and Special Judge, Coimbatore.

For Petitioner(s):	Mr.K.S.Karthik Raja
For Respondent(s):	Mr.A.Amarnath Counsel for Government of Tamilnadu (Criminal Side)

ORDER

This Criminal Original Petition has been filed to set aside the returned docket order dated 27.01.2026 in unnumbered C.M.P.Sr.380 of 2026 on the file of the Essential Commodities cum Special Court and Special Judge, Coimbatore.



2. The petitioner who is an A3 in Crime No.716 of 2025 for the offence under Section 8 (c), 22 (a), 25, 29 (1) of NDPS Act has filed a petition before the Court of Essential Commodities cum Special Court and Sessions Judge of Coimbatore, under Section 497 read with 503 of BNSS Act, to return the vehicle bearing temporary certificate of registration under application no. TN24122112754623. The Court below returned the said petition with the following remarks:-

“As per the guidelines of the Hon’ble High Court of Madras in ROC No.10143-A/2025/F1 dt.18.6.25 all the properties concerned in the cases under NDPS Act are to be handed over to Drug disposal Committee for destruction and disposal as the case may be. Hence, this petition is returned.”

3. The learned counsel for the petitioner submits that the petitioner recently purchased the car with financial assistance from Sundaram Finance Limited. When the petitioner was travelling between Mangalam Road to Kangeyam Road, to attend a birthday function, he was questioned by the respondent – Police and subsequently FIR in Crime No.716 of 2025 came to be registered against him. There is no alleged recovery from the petitioner or from his vehicle. The learned counsel for the petitioner referred to the decision of the Hon’ble Supreme Court in the case of **Sunderbhai Ambalal Desai vs. State of**



Gujarat reported in **(2002) 10 SCC 283** wherein the Apex Court had clearly given the guidelines directing the Courts to return the vehicles. He further referred to the order passed by this Court in **Crl.O.P.No.33623 of 2025 (Mohamed Abdul Kader Seyed vs. State rep. by Inspector of Police, Ambattur Police Station, Prohibition Enforcement Wing (PEW), Ambattur)** wherein this Court referred to the order of the Apex Court in the case of **Denash vs. State of Tamil Nadu** reported in **2025 SCC Online SC 2276** following another judgment of the Hon'ble Supreme Court in the case of **Bishwajit Dey vs. State of Assam** reported in **2025 INSC 32** and held that the Trial Court returning the return of proper petition citing the ROC not even numbering and hearing the parties and not considering the case on merits is in direct contravention to the Apex Court judgment and hence, to consider the petition on merits and in accordance with law.

4. The learned counsel for the Government of Tamil Nadu (Criminal Side) submits that the petitioner is the owner of the vehicle. However, the contraband was seized from A1. On 10.10.2025, the petitioner, along with the other accused persons, had assembled near Kombaitthottam. Based on a secret information received, the respondent Police apprehended and arrested the accused persons. Since the vehicle was involved in an offence under the NDPS Act, the Trial Court, following the ROC issued by this Court in ROC No.10143-A/2025/F1 dated 18.06.2025, dismissed the petition.



5. Considering the submissions made and on perusal of the materials, without going into the merits of the case and the contentions of the petitioner and the objections of the learned counsel for Government of Tamilnadu for not numbering and returning the petition filed for return of property citing ROC.No.70917-A/2025/F1 dated 01.09.2025 is not proper in view of the orders of the Hon'ble Supreme Court as per Article 141 of Constitution of India.

6. Following the *Sainaba's* case, the Apex Court in the case of *Bishwajit Dey vs. State of Assam* reported in (2025) 3 SCC 241, held that criminal law has not to be applied in a vacuum but to the facts of each case and classified four contingencies, namely,

(i) Firstly, where the owner of the vehicle is the person from whom the possession of contraband drugs/substance is recovered.

(ii) Secondly, where the contraband is recovered from the possession of the agent of the owner i.e. like driver or cleaner hired by the owner.

(iii) Thirdly, where the vehicle has been stolen by the accused and contraband is recovered from such stolen vehicle.

(iv) Fourthly, where the contraband is seized / recovered from a third-party occupant (with or without consideration) of the vehicle without any allegation by the police that the contraband was stored and transported in the vehicle with the owner's knowledge and

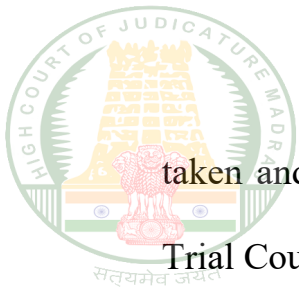


connivance.

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7. The Apex Court further held that in the first two contingencies, the owner of the vehicle or his agent would necessarily be arrayed as an accused and in the third and fourth contingencies, the owner of the vehicle or his agent would not be arrayed as an accused but they are not precluded from filing and claiming return of property. The only condition imposed is that for the first two contingencies, vehicle may not be released on *supurdagi* till reverse burden of proof is discharged by the petitioner/owner. For the third and fourth contingencies, when there is no allegation made in the charge sheet against the owner of the vehicle, the vehicle should normally be released in the interim on *supurdagi* subject to the owner furnishing a bond that he would produce the vehicle as and when directed by the Court and he would pay the value of the vehicle as determined by the Court on the date of release, if the Court is finally of the opinion that the vehicle needs to be confiscated.

8. The Apex Court in the case of ***Tarun Kumar Majhi vs. State of West Bengal*** reported in ***2025 SCC Online SC 2362*** referred to the case of ***Bishwajit Dey*** (cited supra) for release in the interim of any seized vehicle which is further clarified and followed in the case of ***Denash***'s case (cited supra) wherein the impugned order was passed by the Madurai Bench of this Court and the Apex Court referred to four contingencies and clarified that discussion should be



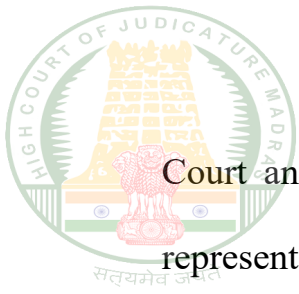
taken and laying down a rigid formula is not proper as it will be open to the Trial Courts to take a different view if the facts of the case so warrants.

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9. In Crl.O.P.No.33623 of 2025, this Court by order dated 11.12.2025 referring to the case of ***Denash and Bishwajith Dey***, (cited supra) observed that not entertaining the return of property petition and returning the same even without numbering is not proper and petitions to be numbered, heard and decided on merits. Thus, citing ROC and returning the petition would not be proper.

10. Hence, the consistent view and directions given by the Apex Court is that the statutes stipulates that where an owner proves absence of knowledge or connivance, the Special Court is duty bound to hear such claim by deciding the fate of the seized vehicle including confiscation. In view of the above, the Trial Court returning the return of property petition is not proper and it would amount to violating Article 141 of Constitution of India. It is fundamental that no petition can be returned summarily without giving opportunity of hearing the petitioner.

11. Accordingly, the docket order dated 27.1.2026 in unnumbered C.M.P.Sr.380 of 2026 on the file of the Essential Commodities cum Special



Court and Special Judge, Coimbatore. is set aside. The petitioner to either represent the petition or file a fresh application which the Trial Court to receive the same, hear the petitioner and the objections and dispose of the petition in accordance with law on the facts and circumstances of each case.

12. With the above directions, the Criminal Original Petition disposed of.

16.06.2026

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
JER

Note: The Registry is directed to return the original petition to the learned counsel for the petitioner.

To

1. The Additional District Judge
Essential Commodities cum Special Court and
Special Judge, Coimbatore.
2. The Inspector of Police,
Tiruppur South Police Station, Tiruppur.
Cr.NO.716/2025.
3. The Public Prosecutor
High Court of Madras.



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M.NIRMAL KUMAR, J.

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