IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2026

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl. R.C. No. 1432 of 2025

Mohamed Riswan Ali @ Riswan,
S/o. Sithik,
No. 8/20, Tharakakalmattu Street,
Thiruvadanai, Tondi Post,
Thiruvadanai Taluk,
Ramanathapuram District – 623 409. ..Petitioner

Vs.

State rep. by
The Inspector of Police,
R.3, Ashok Nagar Police Station,
Chennai (Cr.No. 28/2025) ..Respondent

Prayer: Criminal Revision Petition filed under Section 438(1) r/w 442 BNSS to call for the records relating to the order dated 30.06.2025 passed in Crl.M.P. No. 3944 of 2025 by the learned XVII Judicial Magistrate, Saidapet, Chennai, concerned in Crime No. 28/2025 on the file of the respondent and set aside the same and direct the respondent to hand over the seized cash of Rs.10,57,900/- to the interim custody of the petitioner till the disposal of the trial.

For Petitioner	::	Mr.K. Madhan
For Respondent	::	Mr.R. Vinothraja Govt. Advocate (Crl.Side)

ORDER

The revision is filed challenging the dismissal of the petition filed for return of cash of Rs.10,57,900/-, which was seized during the course of investigation in Crime No. 28 of 2025 registered for the offences under Sections 296(b), 132, 351(3) of BNS and Sections 35 r/w 106 BNSS .

2. There are totally three accused and the petitioner is A1. It is the case of the respondent that A2 and A3, without any valid document, were found to be in possession of the said amount of Rs.10,57,900/-; that their confession revealed that the cash belongs to the petitioner; that the petitioner had directed them to deposit the said cash into the ATM machine in favour of the accounts furnished by him and that neither the petitioner nor A2 and A3 were able to explain the source of the said cash. It is the further case of the prosecution that when the respondent intercepted the accused,

they abused the respondent in filthy language and also committed the offence of criminal intimidation besides attempting to assault them.

3. The petitioner claiming ownership over the said cash had sought for return of the same by filing Crl.M.P. No. 3944 of 2025 before the Trial Court. However, the said petition came to be dismissed by the Trial Court on the ground that the petitioner had not explained the source of the said cash and that the purchase invoices and receipts produced by him were only xerox copies.

4. Learned counsel for the petitioner would submit that the respondent Police had filed the final report for offences under Sections 296(b), 132, 351(3) of BNS r/w Sections 35, 106 of BNSS and Section 4 of Prevention of Money Laundering Act, 2002 against the petitioner and the other two accused; that the said final report is illegal inasmuch as the respondent Police have no jurisdiction to file the final report for the offence under the Prevention of Money Laundering Act; that Sections 35 and 106 of BNSS are not penal provisions; that for the other alleged offences under Sections 296(b), 132 and 351(3) of BNS, seizure of cash cannot be sustained and therefore, the petitioner is entitled to return of cash.

5. Per contra, learned Government Advocate (Crl.Side) would submit that though the respondent Police have no jurisdiction to file the final report in respect of the offence under Section 4 of Prevention of Money Laundering Act, 2002, the petitioner was unable to explain the source of his income and therefore, the amount is liable to be confiscated.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent.

7. It is seen from the impugned order that the offences alleged against the petitioner are under Sections 296(b), 132, 351(3) of BNS r/w Sections 35, 106 of BNSS and Section 4 of Prevention of Money Laundering Act, 2002. As rightly submitted by the learned counsel for the petitioner and fairly conceded by the learned Government Advocate (Crl.Side), the respondent Police have no jurisdiction to file the final report in respect of the offence under Section 4 of Prevention of Money Laundering Act, 2002. Sections 35 & 106 of BNSS are not offences. The other offences are under Sections 296(b), 132 and 351(3) of BNS. The respondent have not been able to unearth any other offence said to have been

committed by the petitioner in respect of the cash. If it is the case of the respondent that it is unaccounted cash, then the same should have been reported to the Income Tax Authority or any such authority. The learned Government Advocate (Crl.Side) submits that in fact, the respondent had reported it to the Income Tax Authorities.

8. Therefore, from the above discussion, it is clear that the petitioner has been charged for the offences under Sections 296(b), 132, 351(3) of BNS. The cash seized from the petitioner is not necessary to establish the said offences. If the petitioner is in possession of any ill-gotten cash, it is for him to explain before the authorities concerned as and when they initiate action against the petitioner. In such view of the matter, this Court is of the opinion that the impugned order is liable to be set aside and the petitioner is entitled to return of cash of Rs.10,57,900/- subject to the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties each for a like sum to the satisfaction of the Trial Court; and

SUNDER MOHAN,J.

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(ii) The petitioner shall file an affidavit of undertaking before the Trial Court to the effect that he would return the said cash as and when required.

9. The criminal revision petition stands disposed of accordingly.

28.01.2026

Neutral Citation: Yes/No

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To

1. The XVII Judicial Magistrate, Saidapet, Chennai.

2. The Inspector of Police,
R.3 Ashok Nagar Police Station, Chennai.

3. The Public Prosecutor, High Court, Chennai.

Crl.R.C. No. 1432 of 2025