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Crl.R.C.No.2778 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2026

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2778 of 2025

K.Suresh

...Petitioner

-Vs-

1.The Inspector of Police,
Team-5, EDF-1,
CCB Tambaram,
Sholinganallur,
Chennai – 600 119.
P.I.No.616 of 2015
Crime No.18 of 2025

2.L.Dhandapa

...Respondents

PRAYER: Criminal Revision Case filed under Sections 438 r/w 442 of the BNSS, praying to set aside the order dated 25.09.2025 made in Crl.M.P.No.2529 of 2025 on the file of the learned Judicial Magistrate No.II, Chengalpattu.

For Petitioner : Mr.K.M.Subheramaniam

For R1 : Mr.R.Vinoth Raja,
Government Advocate (Crl.Side)

For R2 : No appearance



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ORDER

The present Criminal Revision Case is filed challenging the order passed by the learned Magistrate dismissing the petitioner's application seeking return of the movable properties such as cars, cash and gold jewels seized from the petitioner in connection with Crime No.18 of 2025 registered for the offences under Sections 316(2), 318(4), 351(2) and 61(2) of the Bharatiya Nyaya Sanhita.

2. The gist of the allegation in the FIR is that the de facto complainant had executed a Power of Attorney in favour of A4, one Indachand Kochar, giving power to sell his property measuring an extent of 7.67 acres of land situated at Thaiyur Village, Thiruporur Taluk, Chengalpattu District; that thereafter A4 had developed a layout and sold 162 plots, paid a sum of Rs.10 crores to the de facto complainant and issued nine cheques for a total sum of Rs.19 crores, which were dishonoured, and thus A4 and other accused had committed the aforesaid offences.

3. The petitioner is arrayed as one of the accused in the said case. The role played by the petitioner, according to the prosecution, is that the petitioner had entered into an agreement with A4 for development of the plots. During the course of investigation, the respondent police seized certain



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documents and movable properties such as cars, cash and gold jewels from the petitioner. The petitioner sought for return of those articles, which came to be dismissed by the Trial Court by the impugned order.

4. The learned counsel for the petitioner would submit that the FIR itself cannot be sustained as against the petitioner; that the petitioner had not made any representation to the de facto complainant and had acted only as a property developer and was entitled to enter into an agreement with the power agent; that the entire transaction was completed in the year 2019; that in the year 2023, a complaint in respect of the same transaction was filed and the same was closed as it disclosed only a civil dispute; that thereafter the instant complaint was originally filed before the learned Magistrate, who directed registration of the FIR; that since no FIR was registered, the de facto complainant approached this Court and pursuant to the directions issued, the instant FIR came to be registered; and that the articles seized from the petitioner have nothing to do with the alleged offence.

5. The learned Government Advocate (Crl.Side) for the respondent would oppose the prayer, stating that the petitioner's involvement would be revealed only during the course of investigation; that the seized articles are very much essential for the purpose of investigation; and that the impugned



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order does not warrant interference, as the articles seized are alleged to be proceeds of crime and instruments facilitating the commission of the offence.

The respondent has also filed a status report to that effect.

6. Apart from the vague statement made in the status report that the seized documents and articles are instruments facilitating the commission of the offence, the learned Government Advocate (Crl.Side) was unable to point out as to how the seized articles are relevant for the purpose of investigation in the present case.

7. It is well settled that under Section 102 of the Code of Criminal Procedure, 1973, now Section 106 of the Bharatiya Nagarik Suraksha Sanhita, property can be seized only if it is alleged to be stolen or if the possession of the property creates suspicion of commission of an offence. Admittedly, the properties are not stolen properties. The seizure of the properties does not create any suspicion of commission of an offence. It is only after registration of the FIR that the respondent seized the properties.

8. The only other ground raised in the counter is that the properties are proceeds of crime. If the properties are proceeds of crime, Section 102 of Cr.P.C. / Section 106 of BNSS cannot be invoked, and the respondent ought



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to have invoked Section 107 of the Bharatiya Nagarik Suraksha Sanhita. It is also seen that pending the above revision, some of the movable properties such as cars, cash and gold jewels, have already been returned to the petitioner.

9. This Court is of the view that the seizure of the articles is not in accordance with law. The petitioner is entitled to return of all the documents and movable properties seized during the course of investigation, as reflected in the seizure list filed before the learned Magistrate. Hence the properties are directed to be returned with liberty to the first respondent to invoke Section 107 BNSS if the conditions stipulated thereunder are satisfied, and subject to the following conditions.

(i) The petitioner shall execute a bond for a sum of Rs.2,00,000/- (Rupees Two Lakh Only) with two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate-II, Chengalpattu; and

(ii) The petitioner shall not alienate the properties until further orders.

10. Accordingly, this Criminal Revision Case stands allowed.

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Index : Yes/No

Speaking Order/Non Speaking Order

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SUNDER MOHAN, J.

cda

To

1.The Judicial Magistrate No.II, Chengalpattu.

2.The Inspector of Police,
Team-5, EDF-1,
CCB Tambaram,
Sholinganallur,
Chennai – 600 119.

3.The Public Prosecutor,
High Court, Madras.

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