



Crl.RC.(MD) No.581 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2026

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL.RC.(MD) NO.581 of 2026

1. Soundarapandiyan

2. Vijayalekshmi

.... Petitioners

Vs.

The State of Tamilnadu,
Rep. by the Sub Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.
Crime No.52 of 2025

....Respondent

Prayer: Criminal Revision Petition, filed under section 438 r/w 442 of BNSS, to call for the records pertaining to the order passed in Crl. M.P.No.2465 of 2025 on the file of the Judicial Magistrate No.1 Court, Nagercoil, dated 16.10.2025 and set aside the same by allowing the revision petition.

For Petitioners : Mr.P.T.Ramesh Raja

For Respondent : Mr.D.Rajabooapathy,
Counsel for State of TN (Crl. side)



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ORDER

The revision petitioners, who are senior citizens, challenge the order of the learned Judicial Magistrate No.I, Nagercoil, dismissing their petition seeking interim return of a sum of Rs.21,40,000/- seized from their residence and directing deposit of the amount in a nationalised bank by way of fixed deposit. The legality, propriety and correctness of the said order fall for consideration in the present revision.

Factual background:

2. The revision petitioners are husband and wife. They claim to be respectable citizens possessing ancestral properties in Kanyakumari District. Their son, one Vijayananth, is a practising Advocate. The respondent police registered Crime No.52 of 2025 for offences under Sections 3(1), 3(2)(b), 4(2)(c), 5(1)(a) and 7(1)(a) of the Immoral Traffic (Prevention) Act, 1956, against certain accused persons. During investigation, one Muthukumar was arrested.

3. According to the prosecution, Muthukumar allegedly gave an extra-judicial confession implicating the petitioners' son. The

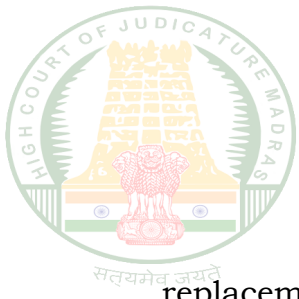


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allegation against the said Advocate is that he was handling certain legal matters concerning massage centres and had introduced persons from Kerala for preparation of educational certificates for women employed in such establishments.

4. The prosecution further alleges that amounts ranging from Rs.5,000/- to Rs.15,000/- per month were deposited in the account of the petitioners' son. The implication of the petitioners' son in the crime is substantially founded upon the alleged extra-judicial confession of the co-accused. During investigation, the respondent police conducted a search of the residence of the petitioners and seized a sum of Rs.21,40,000/-.

5. The petitioners claim that the seized amount represents advance sale consideration received pursuant to an agreement relating to the sale of a portion of their property and has absolutely no connection with the alleged offences. The petitioners further contend that the second petitioner suffers from severe osteoarthritis and has been medically advised to undergo bilateral total knee



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replacement surgery at Ganga Hospital, Coimbatore, necessitating immediate availability of funds.

6. Consequently, the petitioners filed Crl.M.P.No.2465 of 2025 under Section 497 of BNSS before the learned Judicial Magistrate No.I, Nagercoil, seeking interim return of the seized amount. Though notice was served upon the respondent police, no counter or objection was filed opposing the petition.

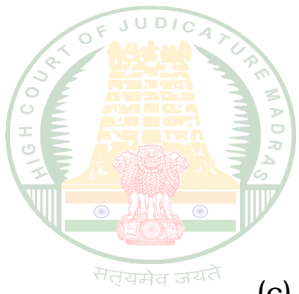
7. Nevertheless, by order dated 16.10.2025, the learned Magistrate dismissed the petition and directed deposit of the amount in a nationalised bank in the form of a fixed deposit. Aggrieved by the said order, the present Criminal Revision Case has been filed.

Case of the prosecution:

8. The prosecution case may be summarised as follows:

(a) Crime No.52 of 2025 concerns offences under the Immoral Traffic (Prevention) Act, 1956.

(b) During investigation, co-accused Muthukumar allegedly disclosed the involvement of the petitioners' son.



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(c) The petitioners' son allegedly facilitated procurement of fabricated educational certificates through persons in Kerala.

(d) Monthly amounts were allegedly paid to him.

(e) Investigation regarding financial transactions is continuing.

(f) The seized amount forms part of the investigation and therefore ought not to be returned at this stage.

Grounds of revision:

9. The revision petitioners challenge the impugned order on the following grounds:

(a) No objection was filed by the prosecution before the Magistrate.

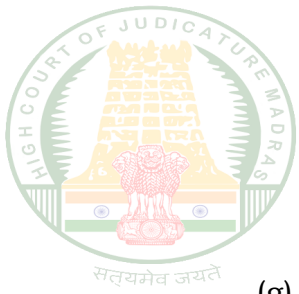
(b) The seized amount has not been shown to be proceeds of crime.

(c) The entire case rests upon an extra-judicial confession of a co-accused.

(d) The petitioners are not accused in the crime.

(e) The money belongs exclusively to the petitioners.

(f) Retention of the amount causes severe hardship due to medical necessity and property transactions.



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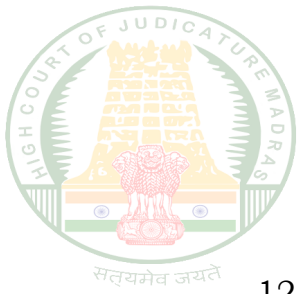
(g) The petitioners are willing to furnish adequate security and execute bonds.

(h) The impugned order results in deprivation of property contrary to Article 300-A of the Constitution.

Submissions on either side:

10. The learned counsel appearing for the petitioners submitted that the petitioners are senior citizens having no criminal antecedents. He would contend that the FIR itself does not contain the name of the petitioners' son and that his subsequent implication is based entirely upon the extra-judicial confession of a co-accused.

11. It was further submitted that an extra-judicial confession is a weak form of evidence and cannot, by itself, justify seizure and continued retention of property belonging to third parties. The learned counsel submitted that the prosecution has not produced any material whatsoever demonstrating that the seized amount constitutes proceeds of crime.



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12. It was further argued that the petitioners have produced a plausible explanation regarding the source of the money, namely advance consideration received pursuant to a property transaction. The learned counsel also emphasised the medical condition of the second petitioner and the urgent requirement of funds for knee replacement surgery.

13. He would further submit that even before this Court, the petitioners' son has filed an undertaking affidavit stating that he would not claim any right over the seized amount if returned to the petitioners. Therefore, according to the learned counsel, the order of the Magistrate is liable to be set aside.

14. The learned counsel appearing for the respondent police submitted that investigation is still in progress. It was argued that allegations regarding financial transactions involving the petitioners' son are under scrutiny. According to the prosecution, release of the amount at this stage may adversely affect the investigation. It was further submitted that there are other criminal cases pending against the petitioners' son and therefore caution is required while



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considering release of the amount. The learned counsel for State therefore sought dismissal of the revision.

15. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for consideration:

16. The following point arises for consideration is "Whether the learned Judicial Magistrate was justified in refusing interim return of the seized amount of Rs.21,40,000/- and directing deposit thereof in a fixed deposit, despite the absence of objection from the prosecution and despite the petitioners' claim of ownership?"

Analysis:

17. Section 497 BNSS substantially corresponds to the power of criminal courts to make orders regarding custody and disposal of property pending inquiry or trial. The object of the provision is preservation of property and not deprivation of property. The provision is intended to ensure that valuable property does not



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unnecessarily remain in police stations or court premises for prolonged periods.

18. The Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai v. State of Gujarat***¹ repeatedly emphasised that courts should ordinarily release property upon imposing appropriate safeguards rather than allowing it to remain idle. The said principle applies with greater force when the property involved is currency.

19. An important circumstance in the present case is that the prosecution did not file any objection before the Magistrate. Though absence of objection is not by itself conclusive, it remains a relevant factor. When the investigating agency itself does not dispute ownership or necessity of continued retention, the court is required to assign compelling reasons for refusing custody. A careful reading of the impugned order reveals no such compelling reason.

20. The prosecution seeks to justify retention primarily on the basis of the alleged confession of co-accused Muthukumar. It is well settled that an extra-judicial confession constitutes a weak species of

¹ [(2002) 10 SCC 283]



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evidence. A confession of a co-accused is not substantive evidence. Such confession can, at best, lend assurance to other independent evidence. In the absence of corroborative material connecting the seized amount with the alleged offences, continued retention solely on the basis of such confession cannot be justified.

21. No material has been placed before this Court to establish that the amount constitutes proceeds of crime. No document has been produced showing that the amount was generated through trafficking activities. No witness statement specifically links the seized cash to the alleged offence. No bank records have been produced tracing the seized amount to any illegal transaction. Mere suspicion cannot substitute proof. At this stage, the prosecution has failed to establish even a *prima facie* nexus between the seized amount and the offences under the Immoral Traffic (Prevention) Act, 1956.

22. Significantly, the petitioners themselves are not accused in the crime. The seizure was effected from their residence. They claim independent ownership over the amount. Their son has filed an



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undertaking affidavit before this Court disclaiming any right over the amount. Therefore, the rights of the petitioners require independent consideration. Criminal investigation cannot become a mechanism for freezing the property of third parties indefinitely without demonstrable justification.

23. Article 300-A protects persons from being deprived of property save by authority of law. Though the right to property is no longer a fundamental right, it continues to be a valuable constitutional right. Any restriction upon such right must be fair, reasonable and legally sustainable. Continued retention of property without adequate justification would amount to arbitrary deprivation.

24. The materials placed before this Court indicate that the second petitioner has been advised to undergo bilateral total knee replacement surgery. The petitioners have also explained the property transaction from which the money is stated to have originated. These circumstances lend credibility to their claim



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regarding necessity of funds. The court below unfortunately failed to examine these aspects in proper perspective.

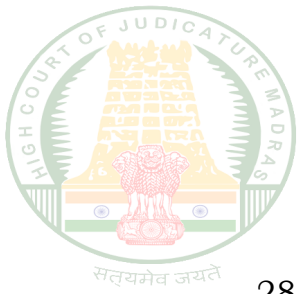
Findings:

25. This Court is of the considered view that:

- (i) The prosecution has not established any *prima facie* nexus between the seized amount and the alleged offences;
- (ii) The petitioners are not accused in the crime;
- (iii) The prosecution filed no objection before the Magistrate;
- (iv) The petitioners' son has filed an undertaking relinquishing any claim over the amount;
- (v) Adequate safeguards can be imposed to secure production of the property whenever required.

26. Consequently, the impugned order cannot be sustained. In the result, this Criminal Revision Case is **allowed**.

27. The order dated 16.10.2025 passed in CrI.M.P.No.2465 of 2025 on the file of the learned Judicial Magistrate No.I, Nagercoil, is set aside.



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28. The learned Judicial Magistrate No.I, Nagercoil, is directed to return the seized amount of Rs.21,40,000/- to the petitioners, subject to the following conditions:

(i) The petitioners shall execute a bond for a sum of Rs. 21,40,000/- to the satisfaction of the learned Judicial Magistrate No.I, Nagercoil;

(ii) The petitioners shall produce proof of identity and ownership documents relied upon by them;

(iii) The petitioners shall undertake to produce the amount or its equivalent value before the Court whenever directed during investigation, inquiry or trial;

(iv) The undertaking affidavit already filed by the petitioners' son disclaiming any right over the seized amount shall form part of the records.

08.06.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml



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1. The Judicial Magistrate No.1,
Nagercoil.
2. The Sub Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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