

Ramasamy vs The State Of Tamil Nadu Rep. By on 17 February, 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.01.2025

Pronounced on : 17.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1363 of 2024

Ramasamy

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
Vanniyampatti Police Station,
Vanniyampatti, Srivilliputhur Taluk,
Virudhunagar District.
(Crime No.148 of 2024)

PRAYER: This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, 2023, to call for the records and set aside the order passed in Crl.M.P.No.1735 of 2024, dated 28.11.2024 on the file of Judicial Magistrate No.II, Srivilliputhur and consequently direct the respondent police to release the petitioner's trailer bearing registration number TN 67 AV 0565 by allowing this revision petition.

For Petitioner : Mr.D.Ramki

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (C)

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ORDER

This Criminal Revision Case is filed against the order, dated 28.11.2024, passed in Crl.M.P.No.1735 of 2024 on the file of the learned Judicial Magistrate No.II, Srivilliputhur, dismissing the petition filed by the petitioner U/s.503 and 497 of BNSS for return of trailer bearing registration No.TN 67 AV 0565.

2.The brief facts of the case:

It is alleged by the prosecution that on 20.09.2024 at 5.00 p.m. two tractors with trailers were used for loading sand at Bricks Kiln without any permission. On the basis of the complaint lodged by the defacto complainant, a case was registered by the respondent police in Crime No.148 of 2024 U/s.303(2) of the BNS Act and 21(1) of the Mines and Minerals Act. The tractors and trailers were seized by the investigating officer. The petitioner claims to be the owner of the vehicle and approached the learned Judicial Magistrate No.II, Srivilliputhur by filing the petition in CrI.M.P.No.1735 of 2024 U/s.503 and 497 of BNSS and the learned Judicial Magistrate has dismissed the petition vide order, dated 28.11.2024.

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3. Aggrieved by the order of dismissal, the petitioner has come forward with this present criminal revision case.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the records in this Criminal Revision Case.

5. The learned counsel appearing for the revision petitioner has submitted that as per the contents of FIR, the petitioner is not involved in the crime. The contents show that the tractor with unnumbered trailer were utilized and the same were seized. The petitioner is falsely implicated in this case as his vehicle was already seized and returned back from the Judicial Magistrate Court, Rajapalam by producing RC book. There is no material filed by the prosecution to show the petitioner's trailer was involved in this case. The seized vehicle is kept idle in open yard by the respondent police from the date of seizure. If the vehicle is in open place, due to exposure of sun and rain, the value of the vehicle would get deteriorated and therefore, interim custody of the vehicle may be granted to the petitioner.

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6. The learned Government Advocate (Criminal Side) appearing for the respondent filed a status report and would further submit that in this crime, two tractors and one numbered trailer and one unnumbered trailer were utilized for taking sand without any permission. The investigation revealed that the unnumbered trailer is having registration number TN 67 AV 0565, which is already involved in another case in C.C.No.95 of 2018 on the file of the learned Judicial Magistrate, Rajapalayam.

7. On hearing both sides, it is clear that the trailer was seized on 20.09.2024. The vehicle was seized and is kept in open place which was not disputed by the respondent police. The petitioner claims that he is the owner of the vehicle and produced a copy of RC book. Though the prosecution case is that unnumbered trailer was involved in the offence, later it revealed the registration number of the

trailer. No other prima facie material is produced. The petitioner's ownership over the trailer is not disputed.

8. If the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated and no purpose will be served in keeping the vehicle in custody. The vehicle has been remanded before <https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) the concerned Judicial Magistrate Court in RPR.No.196/2024 which is not disputed. Whether the vehicle is involved or not can be decided only after thorough trial and after adducing evidence. The Hon'ble Supreme Court issued guidelines in the Sunderbhai Ambalal Desai case reported in 2003 (1) CTC 175 in respect of return of seized properties. Considering the overall facts and circumstances of the case, this Court is inclined to allow this revision subject to conditions.

9. Accordingly, this Criminal Revision Case is allowed, and the order, dated 28.11.2024 passed in Crl.M.P.No.1735 of 2024 on the file of the learned Judicial Magistrate No.II, Srivilliputhur, is hereby set aside. The trailer bearing registration number TN 67 AV 0565 is ordered to be returned to the petitioner on interim custody subject to the confiscation proceedings on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One lakh only) with two sureties for the like sum to the satisfaction of the learned Judicial Magistrate No.II, Srivilliputhur;

ii) The vehicle shall be photographed in different angle in the presence of the Head Clerk of the learned Judicial Magistrate No.II, Srivilliputhur at the cost of the petitioner and the petitioner's signature to be obtained in the back side of the photographs and <https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) the said photographs and CD shall be kept in the case bundle for the purpose of marking them as material objects during trial;

(iii) The petitioner shall produce copy of the Registration Certificate of the vehicle before the learned Judicial Magistrate No.II, Srivilliputhur as it is admitted that the original Registration Certificate is produced in connection with the case in C.C.No.95 of 2018.

(vi) The petitioner shall produce the vehicle before the Court and before the respondent police as and when required.

(v) The petitioner shall not dispose or alienate or change the physical features of the vehicle till the disposal of this case and also disposal of the case in C.C.No.95 of 2018 on the file of the Judicial Magistrate Court, Rajapalayam.

10. The learned Judicial Magistrate, Rajapalayam, is directed to keep the RC book which was already deposited in connection with C.C.No.95 of 2018 till the disposal of this case also.

17.02.2025 NCC : Yes / No Index : Yes / No Internet : Yes / No VSD
<https://www.mhc.tn.gov.in/judis> (Uploaded on: 05/03/2025 12:25:02 pm) To

1.The Judicial Magistrate No.II, Srivilliputhur.

2.The Judicial Magistrate, Rajapalayam.

3.The Inspector of Police, Vanniyampatti Police Station, Vanniyampatti, Srivilliputhur Taluk,
Virudhunagar District.

(Crime No.148 of 2024)

4.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

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VSD Pre - Delivery Order made in 17.02.2025 <https://www.mhc.tn.gov.in/judis> (Uploaded on:
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