

IN THE COURT OF JUDICIAL MAGISTRATE, SULUR.

Presence : **Thiru.T.Arunkumar, M.A., M.L., M.B.A.,**
 Judicial Magistrate,
 Sulur.

Thursday, the 12th Day of March 2026

CMP No.267 of 2026

The State of Tamil Nadu,
 Rep. through the Inspector of Police
 Karumathampatty PS
 in Cr.No.407/2021 u/s.7(1), 20(ii) COTPA Act 2003
 r/w 328 IPC.

....Petitioner/Complainant

//Vs//

Modhilal and Chetraram Malik

.....Respondents.

The petition filed by the Inspector of Police, Karumathampatty Police Station was taken up for consideration today and heard the Learned Assistant Public Prosecutor and this court delivered the following :

ORDER

(1). The Petitioner/the Inspector of Police, Karumathampatty Police Station has filed petition under Section 497 of BNSS seeking an Order of this Court to destruct the seized Tobacco Products in Crime No.407 of 2021 of Karumathampatty Police Station for offence under Sections u/s.7(1), 20(ii) COTPA Act 2003 r/w 328 IPC.

(2). On perusal of the case records, it reveals that the Case Properties 1.Hans-579Kgs 2.Master Panmasala-125 Kgs, 3.Bullet Rani Panmasala – 72 Kgs, 4.Swagath Pan masala-304.8 Kgs, 5.MI Tobacco-18 Kgs, 6.Ganesh 9.360 Kgs, 7.Pathan -3.400 Kgs (Total 1.111.56 Kgs) of Tobacco products in Crime No.407 of 2021 were assigned **P.R.No.114 of 2021** by this Court on 09.08.2021. The case properties were duly weighed, entire process was videographed, samples were taken and sent for Forensic Laboratory and the balance properties are kept in the Property Room of this Court. Due to huge quantity and space constraints, except the sample packets, the rest of the properties in P.R.No.114 of 2021 were handed over to the police for safe custody.

(3). Since, the case properties in P.R.No.114 of 2021 are of tobacco products, they are likely to subject to natural decay. Further, since the seized items are of huge quantity, the averment of the Inspector of Police that they have no space at the police station to preserve

the same is also valid. It is also notable that the said case properties were already deposited to this Court and case property number has been assigned. Requisite samples have been taken and entire process has been videographed. The samples and the videograph can be used at the time of trial in the case. Therefore, this Court is of the view that no prejudice will be caused to any party if an order is passed for the disposal of the seized tobacco products in P.R.No.114 of 2021.

(4). The Hon'ble High Court of Madras in the case **S.Maheswari vs. State represented by the Sub-Inspector of Police, Ponamallee Police Station and others** in (Crl.R.C.No.225 of 2020) vide its judgement dated 01.09.2020 had held that

“17 In the instant case, the respondents 1 and 2 ought not to have kept the petitioner's godown under lock and key for nearly 20 months. One can understand if the police and the Food Safety Officer had sealed the premises for preserving the contraband for a short span of time. After obtaining the laboratory report, they could have reported the matter to the jurisdictional Magistrate and with the help of the Assistant Public Prosecutor, could have filed an application under Section 310 Cr.P.C. for a local inspection by the Magistrate and after taking photographs, videographs and samples in the presence of the Magistrate, they could have shifted the contraband to their own godown or could have destroyed it with the help of the Food Safety officials in terms of the circular dated 13.05.2017 or under Section 451 Cr.P.C. on the orders of the Magistrate on the premise that the gutkha, being a foodstuff as declared by judicial verdicts, is subject to speedy and natural decay and that in public interest, it will be expedient to do so as it should not find its way illegally into the market for public consumption.

And further the Hon'ble High Court has stressed upon the importance of the Investigation Officer to take steps for the disposal of the seized tobacco products. In the said judgment, the Hon'ble High Court has mentioned the Circular dated 13.05.2017 in R.No.7145/2016/S1/FSSA of the Commissioner of Food Safety and Drug Administration Department for the purpose of disposal of the seized tobacco products.

(5). In consideration of all the above, this Court directs that the case properties (tobacco products) in P.R.No.114 of 2021 handed over to the Karumathampatty Police (except the samples in the Property Room of this Court) shall be safely destructed with the aid of the officials of the Food Safety and Standards Department by adhering to the

procedure laid down in the Circular dated 13.05.2017 in R.No.7145/2016/S1/FSSA of the Commissioner of Food Safety and Drug Administration Department. The officials of the Food Safety and Standards Department shall co-operate to the SHO, Karumathampatty Police Station for the destruction of the contraband. A destruction memo and a report by the concerned Station House Officer shall be submitted to this Court soon after the destruction of the case properties. This Order is passed by this Court u/s.497 of BNSS. **In result, this petition is allowed.**

(6). A free copy of this Order shall be furnished to the SHO of the concerned police station and the officials of the Food Safety and Standards Department upon due request. Compliance of this order shall be reported on 28.04.2026 to this Court from the date of receipt of this Order. Post this petition for reporting compliance. Call this petition on **28.04.2026.**

Pronounced by me in open Court this the 12th day of March 2026.

Judicial Magistrate,
Sulur.