



WP(MD)No.5706 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 28.06.2023

PRONOUNCED ON : 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.5706 of 2011

and

MP(MD)No.1 of 2011

M.Thirunavukkarasu (Died)

T.Vasanthi

: Petitioner

[Petitioner substituted vide order dated 06.06.2022]

Vs.

1.The Superintendent of Police,
Sivagangai District, Sivagangai,
Sivagangai District.

2.Murugesan

3.Nethaji

4.Gunasekaran

5.Rajapandian



WP(MD)No.5706 of 2011

6. The Regional Transport Officer,
Karaikudi,
Sivagangai District.

: Respondents

[R.6 impleaded vide order dated 22.06.2022]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the notice of seizure issued by the fifth respondent on 11.04.2011 at Kallal, quash the same and consequently, punish the respondents 2 to 5 under Chapter II, 3 of Scheduled Caste ad Scheduled Tribe (Prevention of Atrocities) Act for the offence u/s.3(1)(IX) of the Act and to pay compensation to the petitioner for their criminal conspiracy in harassing and annoying the petitioner unnecessarily on no fault on him.

For Petitioner : Mr.P.Murughadasan

For Respondents: Mr.R.Baskaran,
Additional Advocate General
Assisted by
Mr.S.Saji Bino,
Special Government Pleader
for R.1, R.6

No appearance for R.2, R.5

Mr.L.George Paul Anto for R.3, R.4



WP(MD)No.5706 of 2011

ORDER

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This writ petition is filed by one M.Thirunavukkarasu

i) as against the notice of seizure issued by the fifth respondent dated 11.04.2011;

ii) to take action as against the respondents 2 to 5 under the provisions of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act; and

iii) to pay compensation for the criminal conspiracy in harassing him.

2. According to Thirunavukkarasu, he belongs to Scheduled Caste community and he purchased an Auto, bearing reg.No.TN-63-U-7660, by obtaining loan from Tamil Nadu Adi Dravidar Housing Development Corporation (TAHDCO). He also agitated as against the various crimes including a double murder, misappropriation of funds by the officials, etc., as against the respondents 2 to 4. In this regard, he also wrote several complaints to the higher officials. According to Thirunavukkarasu, the respondents 2 to 4, in order to take revenge as against him, have instigated



WP(MD)No.5706 of 2011

the fifth respondent / then Motor Vehicle Inspector to seize his Auto, by way of the impugned seizure notice dated 11.04.2011. Hence, he filed this writ petition.

3.Pending this writ petition, Thirunavukkarasu died and this writ petition is being represented by his wife, Vasanthi.

4.The private respondents took a stand that the Motor Vehicle Inspector, Karaikudi, inspected the petitioner's Auto bearing Reg.No.TN-63-U-7660 on 11.04.2011 and at that time, the petitioner has not produced the fitness certificate and PUC tax document before the Motor Vehicle Inspector. Therefore, the vehicle was impounded and was handed over to the Kallal Police Station for safe custody. The seizure memo was also served upon the petitioner with acknowledgment.

5.Heard the learned Counsel appearing for the respective parties and perused the available materials.



WP(MD)No.5706 of 2011

WEB COPY

6.The power to detain vehicles which are being used without the certificate of registration, permit, etc., is provided under Section 207 of the Motor Vehicles Act, 1988. As per this Section, any police officer or other person authorized, if he has reason to believe that a motor vehicle has been or is being used in contravention of the provisions of Section 3 or Section 4 or Section 39 or without the permit as required by Sub-Section 1 of Section 66 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, seize and detain the vehicle, in the prescribed manner and for this purpose, take or cause to be taken any steps may be considered proper for the temporary safe custody of the vehicle.

7.On earlier occasion, when the writ petition came up for hearing on 13.07.2022, the private respondents projected before this Court as if the subject vehicle, bearing Reg.No.TN-63-U-7660, is a theft vehicle and that if the petitioner produces the original RC book and other relevant documents, the vehicle would be released. Therefore, this Court directed



WP(MD)No.5706 of 2011

the petitioner to produce the original documents relevant to the vehicle and also to pay the necessary compounding fee. On such payment, the respondents 3 & 6 were also directed to release the vehicle.

8. Accordingly, the petitioner paid the compounding fee and produced the original documents. The sixth respondent verified the same and by proceedings in Na.Ka.No.12899/ A2/2022 dated 05.09.2022, issued the vehicle release order to the third respondent. When the petitioner approached the third respondent, it was reported that the petitioner's vehicle bearing reg.No.TN-63-U-7660 was missing. Therefore, the petitioner has filed a contempt petition in Cont.P(MD)No.936 of 2023, wherein, this Court has issued a statutory notice.

9. The private respondents, on the other hand, took a stand that the vehicle is very much available and that since the vehicle has become old and repaired due to the passage of time, the petitioner is refusing to take delivery of the vehicle. In order to ascertain the truth, this Court, by order dated 18.04.2023, directed the sixth respondent / Motor Vehicle Inspector



to figure out the condition of the vehicle and to produce the records pertaining to the seizure of the vehicle.

10. Consequent to the same, the sixth respondent inspected the vehicle on 27.04.2023 and submitted a report along with comparative photographs before this Court. The relevant portion of the report is extracted as follows:-

“1. வாகனத்தில் அடிச்சட்ட எண். (Chasis No.MD2AA24ZZNWJ 01739) அசல் வடிவில் இல்லாமல் புதியதாக அசல் போல் Punch செய்யப்பட்டு இருப்பது தெரிய வருகிறது.

2. வாகனத்தில் உள்ள பொறி எண். (Engine No.) AEMBGA 12068 காணப்படுகிறது. ஆனால் பதிவுச் சான்றின்படி பொறி எண்.AEM BNJ 17697 ஆகும்.

3. வாகனத்தின் Handle Barஐ ஆய்வு செய்த போது, வாகனத்தில் உள்ளது 2006க்கு முன்பாக தயாரித்த பஜாஜ் ஆட்டோவில் உள்ளது போல் தெரியவருகிறது.

4. பின்புற பிரேக் பெடல் ஆய்வு செய்த போது, வாகனத்தில் உள்ளது 2006க்கு முன்பாக தயாரித்த பஜாஜ் ஆட்டோவில் உள்ளது போல் தெரியவருகிறது.

5. வாகனத்தின் பதிவு எண் TN58 என்பது மங்கலாக தெரிய வருவதுடன் அதற்கு மேல் TN-63-U-7660 என்று ஸ்டிக்கர் ஒட்டப்பட்டிருப்பதும் தெரிய வருகிறது.



WP(MD)No.5706 of 2011

மாண்புமிகு நீதிமன்ற உத்தரவுப்படி கல்லல் காவல் நிலையத்தில் நிற்கும் வாகனத்தை நான் ஆய்வு செய்த வகையில் என்னிடம் ஆய்வுக்குட்படுத்தப்பட்ட வாகனமானது மேற்கண்ட ஆதாரங்கள் மற்றும் எனது களப்பணி ஆய்வின் மூலம் TN-63-U-7660 என்ற ஆட்டோ ரிக்ஷா வாகனம் அல்ல என்பதை பணிவுடன் தெரிவித்துக் கொள்கிறேன்.”

11.From the report of the sixth respondent and the comparative photographs produced by him, it is clear that the vehicle present in the Kallal Police Station is not the vehicle bearing reg.No.TN63-U-7660 seized from the petitioner. The chassis number, engine number of the seized vehicle and the vehicle that was produced are different. An attempt is made by re-pasting the registration number to project as if the seized vehicle has been produced, which could very well be seen from a naked eye. For this report, no explanation is forthcoming from the private respondents.

12.*In Re State of Maharashtra v. Nanded-Parbhani Z.L.B.M.V., Operator Sangh* [2000 (2) SCC 69], the Hon'ble Supreme Court has held that the power of seizure under Section 207 is a sovereign power of the



State and that the same has to be exercised with care and caution. The

relevant portion from the said decision is extracted as under:-

*“8.The aforesaid power of seizure has been conferred upon the appropriate authority, which power is in fact a sovereign power of the State and has been delegated to the police officer in discharge of their duties of law enforcement and in the enforcement of an orderly society. The power, therefore, is required to be exercised with care and caution and the power has to be exercised only when the precondition for exercise of power is fully satisfied. It is a cardinal principle of the rule of construction of a statute that when the language of a statute is fairly and reasonably clear, then inconvenience or hardships are no considerations for refusing to give effect to that meaning. It is not the contention of the learned counsel appearing for the State nor can it be said that on giving a plain meaning to the words used in [Section 207\(1\)](#) of the Act, there will be any absurdity or it would make the statute offend any provisions of the Constitution. Tindal, C.J, in *Sussex Peerage* case [(1844) 11 Cl & Fin 85, 143], applying the rule has stated*

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"If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves do alone in such cases best declare the intent of the lawgiver" ...".



WP(MD)No.5706 of 2011

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13. However, in this case, it appears that the private respondents have abused their official position, seized the petitioner's vehicle and disposed of the same, in order to settle the score with him. It is contended by the petitioner's wife that in this harassment and mental agony, pending this writ petition, her husband, Thirunavukkarasu, died. The action of the private respondents are nothing but abuse of power and they have caused great injustice to the petitioner and her husband.

14. In view of the foregoing discussions, this writ petition is disposed of in the following terms:-

- The impugned order of seizure is quashed, inasmuch as the petitioner and the subject vehicle are no more.

- The petitioner's wife is entitled for a compensation of Rs.2,00,000/- (Rupees Two Lakh only) for the harassment faced by her husband at the hands of the private respondents. The first respondent shall pay the compensation amount and shall recover the same from the concerned officials / respondents 2 to 5 herein.



WP(MD)No.5706 of 2011

- The first respondent shall also initiate necessary disciplinary action as against the erring officials and shall ensure that such incidents are not recurring in future.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Internet : Yes
Index : Yes / No
NCC : Yes / No
gk

22.12.2023

To

1.The Superintendent of Police,
Sivagangai District, Sivagangai,
Sivagangai District.

2.The Regional Transport Officer,
Karaikudi,
Sivagangai District.



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WP(MD)No.5706 of 2011

B.PUGALENDHI, J.

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WP(MD)No.5706 of 2011

22.12.2023