

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2015

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.OP No.16264 of 2015

M/s.Indian Additives Limited,  
Rep.by its Managing Director,  
Mr.N.Ravi.

.. Petitioner

Vs

The Inspector of Police,  
GNT Traffic Accident Investigation Wing,  
Madavaram,  
Manjambakkam,  
Chennai Suburban  
Police.

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to direct the respondent to release the truck bearing No.WB 23C 9909 pertaining to Prakash Oil Carriers containing the Zinc Dithiophosphate measuring about 18710 quantity(hazardous substance) of the petitioner in order to enable them to unload the same.

For Petitioner :Mr.Karthick  
for M/s.T.S.Gopalan & Co  
For Respondent :Mr.C.Emalias,  
Additional Public Prosecutor

ORDER

This petition has been filed to direct the respondent to release the truck bearing No.WB 23C 9909 pertaining to Prakash Oil Carriers containing the Zinc Dithiophosphate measuring about 18710 quantity(hazardous substance) of the petitioner in order to enable them to unload the same.

2. Mr.T.Jayakumar, the Inspector of Police, Madhavaram Traffic Investigation, is present before this Court.

3. The petitioner who is a manufacturer and supplier of Zinc Dithiophosphate [a hazardous substance], sent a consignment of the said substance from its factory at Manali to a client in Gujarat by Prakash Oil Carriers. On 13.06.2015, the item was loaded in a truck bearing Registration No.WB 23C 9909 owned by Prakash Oil Carriers.

On 18.06.2015, the truck left the factory of the petitioner and near Manali a tragic accident took place, in which a Police Constable who was crossing the road was ran over by the lorry. Fearing mob fury, the driver abandoned the lorry with the said substance and fled the scene. The respondent police registered a case and towed the lorry to the Police Station and the lorry is now parked there.

4. It is the contention of the petitioner that, the substance in the lorry is an hazardous substance and it should not be kept for long as that, may result in causing environment pollution and further, harm will ensue to the public. When the petitioner approached the respondent police for release of the goods, it appears that, the respondent police have not even reported the seizure to the jurisdictional Magistrate. Hence, this petition.

5. The learned Additional Public Prosecutor very strongly objected to the prayer of the petitioner on the ground that, the driver after having caused the death of a police man on duty, is still at large and that he has to be apprehended. The learned Additional Public Prosecutor also produced the photographs showing the dead body of the deceased. This Court has all sympathies for the bereaved and the accused has to be apprehended. Can that be a ground to deny the relief to the petitioner herein, is a question which begs an answer. When a Police Officer or a Judicial Officer is transferred from one District to a far of District, he will have to perforce approach a lorry service for transporting the household articles. En route, if the driver of the lorry carrying the household articles were to get involved in a road accident resulting in fatality, can the household goods be seized on the ground that they have to be marked as material objects in the trial? Common sense itself will provide an answer for this question. That apart, Zinc Dithiophosphate is an hazardous substance and if any untoward incident takes place while the truck is parked in the Police Station, it may lead to serious consequences.

6. Under such circumstances, this Court directs the respondent police to forthwith report the factum of seizure to the Judicial Magistrate, Thiruvotriyur. It is not necessary for the police to physically produce the lorry with the substance before the Magistrate. If an application is made before the Magistrate under Section 310 Cr.P.C., the Magistrate is directed to send an Officer of the Court to note down the features of the tanker lorry in the Police Station, which would suffice. The police may also submit photographs of the tanker lorry. The petitioner is directed to file an application under Section 451 Cr.P.C. before the Judicial Magistrate, Thiruvotriyur, for custody of the substance in the lorry and on such petition being filed, the learned Magistrate is directed to expeditiously conduct enquiry and if the Magistrate is satisfied that the substance belongs to the petitioner, the same may be returned to the petitioner after obtaining a bond for Rs.25,000/- [Rupees twenty five thousand only] with two sureties. It is not necessary for the

Magistrate to pass the usual order of calling upon recipients of such articles to keep them in safe custody for production at the time of trial, for, the substance in the tanker lorry will in no way be a relevant piece of evidence in a trial for determining the facts in issue. The learned Judicial Magistrate, Thiruvotriyur is directed to expeditiously conduct the proceedings and complete the same within two weeks from the date of receipt of a copy of this order.

With the above direction, this petition is closed.

gms

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

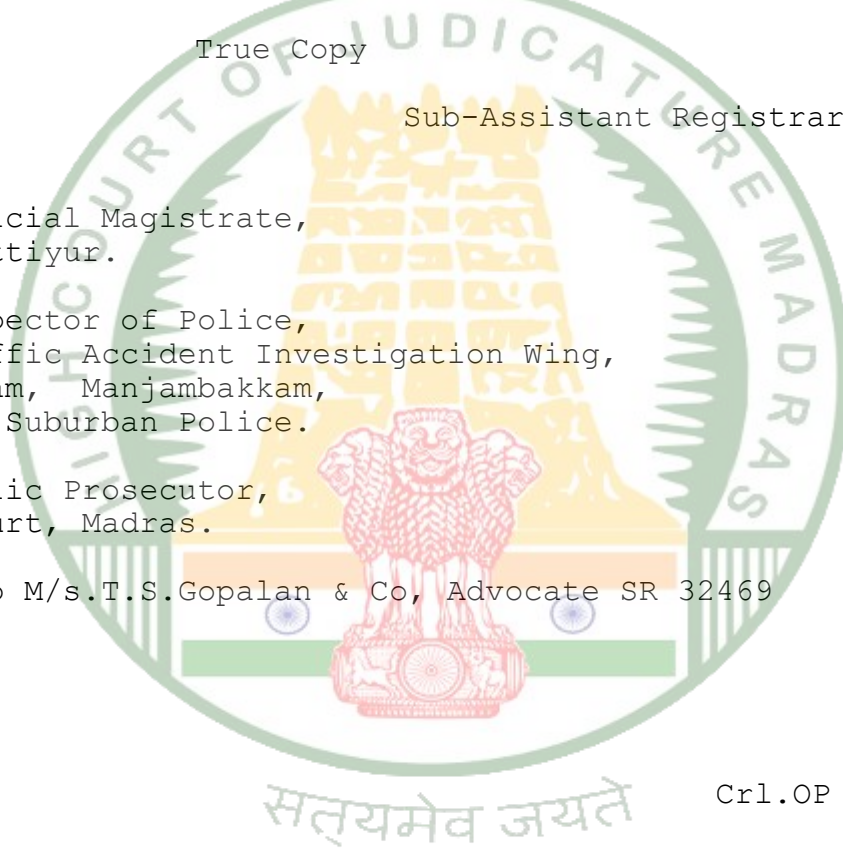
1.The Judicial Magistrate,  
Thiruvottiyur.

2.The Inspector of Police,  
GNT Traffic Accident Investigation Wing,  
Madavaram, Manjambakkam,  
Chennai Suburban Police.

3.The Public Prosecutor,  
High Court, Madras.

+ 2 ccs to M/s.T.S.Gopalan & Co, Advocate SR 32469

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