

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.31519 of 2015

S. Elumalai

... Petitioner

Vs

1. The Regional Transport Officer (RTO)
Licensing Authority
Regional Transport Office
Chennai South West
Valasaravakkam Chennai - 600 092

2. The Inspector of Police
Traffic Investigation Wings
R.4 Pondy Bazaar Chennai - 600 017

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 1st respondent to return Driving License No.TN 25-199 3000 11 32 (Valid upto 01.12.2017) of the petitioner which was seized in connection with Cr.No.290/TN2/15 on the file of Rs.4 Pondy Bazaar Traffic Investigation wing to the 2nd Respondent Investigation Officer who shall in turn issue an acknowledgement to the petitioner and then produce the same before the jurisdictional Magistrate and the learned Magistrate in turn shall exercise his/her power under Section 206 of the Motor Vehicles Act 1988 and return the license to the petitioner.

For petitioner : Mr.J.Muthukumaran

For respondents : Mr.M.S.Ramesh,
Additional Government Pleader

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader, who took notice for the respondents and with their consent, the main writ petition itself is taken up for disposal.

2. This writ petition has been filed seeking a direction to the Regional Transport Officer to return the original driving licence No.TN 25-199 3000 11 32 to the petitioner.

3. The petitioner is employed as a driver in the Metro Transport Corporation (Chennai) Ltd., attached to Ayyappanthangal Branch Workshop holding driving license in No.TN 25-199 3000 11 32 issued by the 1st respondent. On 23.08.2015, while he was driving the Vehicle bearing Registration No.TN-01-N-4906 (Workshop No.IYI 817)-Route No.37-G, from Vallalar Nagar Bus stand to Iyyappan Thangal at about 19.10 hrs, when he was proceeding from the Valasaravakkam Bus stop, a two wheeler running behind the bus in the same direction, slipped down on the left side of the bus and dashed against the central portion of the bus and after hearing the alarm from the passengers in the bus and after viewing on the left side mirror, he stopped the bus by applying the brakes and the injured was taken to the hospital and he died. Subsequently, a case was registered against the petitioner under sections 279 and 304 A IPC in Crime No.290/TN2/2015 on the file of R4, Pondy Bazaar Traffic Police Station and the investigating officer who arrested the petitioner and released on bail, has also seized the vehicle and later produced the same before the Motor Vehicle Inspector, for report. The said criminal case is pending before the jurisdictional Metropolitan Magistrate Court. The investigating officer has also seized the driving licence of the petitioner, which is valid upto 01.12.2017 and handed over the same to the 1st respondent for cancellation on account of loss of life allegedly caused by him. The petitioner submitted a representation dated 09.09.2015 to the 1st respondent, requesting to return the driving licence since the accident was not due to his negligence or rash driving but due to the wrong side driving of the two wheeler. It is the grievance of the petitioner, even before the criminal court tries the alleged offence charged against him, the respondent cannot come to the conclusion that he committed cognizable offence. Hence, the petitioner has no

other option except to approach this Court by way of filing of this writ petition.

4. In identical circumstances, this Court in W.P.No.27103 of 2014 dated 13.10.2014 (Mani vs. Regional Transport Officer, Erode), has passed the following order:

"6. The issue involved in this Writ Petition is covered by the decision of this Court in a similar writ petition in W.P.(MD) No.16806 of 2013 dated 22.10.2013, wherein this Court has held as follow:

"7. In view of the said conclusion, I hold that the action of the respondent in retaining the license is illegal. At the same time, in the present case, license was seized by the police, it is for the licensing authority to return the license to the police investigating the criminal case forthwith. On getting the driving license of the petitioner, the investigating officer shall issue acknowledgment, as provided in sub-section 3 of Section 206 of the Motor Vehicles Act and then produce the license before the jurisdictional Magistrate. The jurisdictional Magistrate shall thereafter return the license to the petitioner, as provided in Section 206(1) of the Motor Vehicles Act. On such return of the license to the petitioner, the petitioner shall execute a bond to the satisfaction of the jurisdictional Magistrate undertaking to produce the license, as and when required by the Court.

7. Therefore, this Writ Petition is allowed. The 1st respondent is directed to return the driving license to the Investigation Officer/2nd respondent in Crime No.116 of 2014 on the file of the 2nd respondent, who shall, in turn issue an acknowledgment to the petitioner and then produce the same before the jurisdictional Magistrate and the learned Magistrate, in turn, shall exercise his power under section 206(1) of the MV Act and return the license to the petitioner."

5. Hence, in the light of the above, the present Writ Petition is allowed. The 1st respondent is directed to return the driving license, which was seized in respect of Crime No.290/TN2/15 on the file of 4, Pondy Bazaar Traffic Investigation Wing, to the Investigation Officer, who shall, in turn issue an acknowledgment to the petitioner and then produce the same before the jurisdictional Magistrate and the learned Magistrate, in turn, shall exercise his power under section 206 (1) of the Motor Vehicles Act and return the license to the petitioner. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Transport Officer (RTO)
Licensing Authority
Regional Transport Office
Chennai South West
Valasaravakkam Chennai - 600 092
2. The Inspector of Police
Traffic Investigation Wings
R.4 Pondy Bazaar Chennai - 600 017

+lcc to Mr.J.Muthukumaran, Advocate, S.R.No.54160

+lcc to the Government Pleader, S.R.No.54342

W.P.No.31519 of 2015

VSN(CO)
CA(19/10/2015)

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