

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 302 OF 2016

(Mushtaque Ahmed s/o Abdul Nazir & Anr. vs. State of Maharashtra thr. PSO, Sadar PS, Nagpur
& Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA JAIN, JJ.
NOVEMBER 24, 2016.**

Heard Shri Shakul R. Ghatole with Shri Abdul Subhan, learned counsel for the petitioners and Shri M.J. Khan, learned APP for the respondents.

The request of the learned counsel for the petitioners for grant of adjournment is rejected.

Prima facie, we find that the same vehicle number/ registration number was mentioned on two different motor vehicles.

The petitioners have got an explanation to offer, which the respondents are denying. The petitioners claim that the petitioners had a water supply contract from Nagpur Municipal Corporation. The respondents have today produced communications dated 20.10.2016 which are issued by the Executive Engineer of Nagpur Municipal Corporation mentioning that the two tankers i.e. MH 31 – 5028 and MHG – 5470 were not working under its water supply department. We have taken these documents on record and marked as Exhs. 'A' & 'B'. The petitioners have produced a copy of Intimation of Work dated 17.10.2016

issued by the very officer which mentions work of transportation and distribution of drinking water. Therein, Vehicle number recorded is MH-02 T-6927. It is taken on record and marked as Exh. 'C'. The undated communication issued by the Regional Transport Officer to Petitioner No. 1 in relation to motor vehicle No. MHG 5470 shows that tax under Bombay Motor Vehicles Tax Act i.e. one time tax was paid. The information is furnished on 21.11.2016 and the officer supplying it placed date 21.11.2016 below his signature. This document is taken on record as Exh. 'D'. The document at Exh. 'D' prima facie shows that the vehicle is manufactured in the year 1974 and the petitioner got it registered in their name on 21.04.1992.

The respondents have along with their reply affidavit dated 24.10.2016 placed on record a communication dated 20.10.2016 demanding Green tax of Rs.8,760/- and 2% interest per month upon it. These respondents are claiming the amount of Rs.21,024/- as interest on principal demand of Rs.8,760/-.

The photographs showing the same number on two different motor vehicles are tendered today by the respondents and the same are taken on record and marked as Exhs. 'E' & 'F'.

The explanation of the petitioners is, the other vehicle was not in running condition and preserved due to sentimental values attached to it. It is further stated that the petitioners were in the process of changing tank upon it. A new storage tank to be fitted on the vehicle was purchased and the officers have acted high handedly in the matter. Our attention is also drawn to the fact that the spot

panchanama carries some blanks and has been prepared in most casual manner.

By interim orders passed on 18.04.2016, the vehicles were directed to be released to the petitioners. Accordingly, both the vehicles today are in the custody of the petitioners.

By the interim orders passed on 03.10.2016, we have directed the petitioners to deposit an amount of Rs.25,000/- with the Registry of this Court only to show their bonafides. That amount has been deposited with the Registry of this Court.

In this situation, as we find that several disputed questions of fact arise, we are not inclined to intervene in the extra ordinary jurisdiction.

The amount of Rs.25,000/- in deposit with the Registry of this Court is allowed to be withdrawn by respondent No. 3 – Regional Transport Officer, RTO, Nagpur, and it shall be appropriated towards its alleged demand of Green tax. However, this shall not prejudice the right of the petitioners to demonstrate that no such tax was/is payable in relation to that vehicle as it was not in use.

Leaving all rival contentions open and with liberty to the petitioners to raise their grievance in appropriate jurisdiction, in accordance with law, we dispose of the present Criminal Writ Petition. No costs.

JUDGE

JUDGE