

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No. 34875 of 2016

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C. Kumar

.. Petitioner

Versus

The Inspector of Police
Magundavanchavadi Police Station
Salem District

.. Respondent

Petition filed under Article 226 of The Constitution of India praying for a Writ of Mandamus directing the respondent to release the petitioner's lorry bearing Registration No. TN 34 K 5919 from the illegal custody of the respondent.

For Petitioner : Mr. R. Ezhilarasan
For Respondent : Mr. A.N. Thambidurai
Special Government Pleader

ORDER

The petitioner seeks for issuance of a Mandamus directing the respondent to release the lorry bearing Registration No. TN 34 K 5919 from his custody forthwith.

2. According to the learned counsel for the petitioner, the petitioner is the owner of the vehicle - Lorry bearing Registration No. TN 34 K 5919. It is his contention that on 18.06.2016, he had left the lorry owned by him in a workshop for repair. On 22.06.2016, since the petitioner's lorry was left in the workshop for some repair, the petitioner drove his brother's vehicle - Mahindra Bolero and on that date, he met with an accident. In connection with the accident, the petitioner was arrested and remanded to judicial custody by the learned Judicial Magistrate No.I, Attur. In connection with the said incident, the respondent impounded the lorry belonged to the petitioner and which was kept in the workshop for repair on the ground that the lorry was also involved in the accident on 22.06.2016. According to the learned counsel for the petitioner, the lorry was not driven by any one on 22.06.2016 inasmuch as it was left in the workshop for repair even from 18.06.2016 and that is the reason why the registration number of the vehicle owned by the petitioner has not been mentioned in the first information report.

<https://hcservices.ecourts.gov.in/hcservices/> 3. The learned Special Government Pleader appearing for the respondent would contend that no doubt, the vehicle number of the lorry belonged to the petitioner has not been mentioned

in the first information report, but the vehicle number was wrongly mentioned therein as TN 30 5919. This was revealed during the course of investigation by the investigation officer. As the investigation revealed that the petitioner's vehicle was involved in the accident, it was seized by the respondent. Further, the vehicle has been seized only to get a report from the Motor Vehicle Inspector. It is also submitted that the petitioner is not cooperating with the investigation officer in furnishing the particulars of the insurance relating to the vehicle. In any event, the learned Special Government Pleader justified the detention of the vehicle of the petitioner.

4. I heard the learned counsel for the petitioner as well as the learned Special Government Pleader for the respondents. The respondent seized the vehicle belonged to the petitioner on 22.06.2016 and for the past four months, it is stationary. It has been repeatedly held by this Court as well as the Honourable Supreme Court that the vehicles need not be detained unnecessarily for a longer period as its utility value will be diminished. Further, it is the contention of the petitioner that the vehicle in question is not involved in the accident at all. However, this Court cannot go into the merits or otherwise of such contention raised on behalf of the petitioner. Suffice to state that the involvement of the vehicle in question in the accident cannot be decided by the appropriate Forum based on the investigation carried on by the respondent. For the purpose of disposal of this petition, it is observed that no useful purpose will be served if the vehicle is detained in the police station. Having regard to the above, without expressing any opinion on merits, the respondent is directed to release the lorry bearing Registration No. TN 34 K 5919 to the custody of the petitioner subject to the conditions mentioned below:-

(i) The petitioner shall establish the ownership of the vehicle by producing documentary evidence such as Registration Certificate etc.,

(ii) The petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) before the respondent forthwith.

(iii) The petitioner shall file an affidavit of undertaking to the respondent stating that he will not alienate or encumber the lorry to any third parties till the completion of adjudication proceedings by the competent authority

(iv) The petitioner is also directed not to indulge in any other criminal offence either directly or indirectly or commit breach of the Motor Vehicles Act and Rules.

5. With the above direction, the writ petition is disposed of. No costs.

Sd/-

Asst.Registrar (CS V)

To

The Inspector of Police
Magundavanchavadi Police Station
Salem District.

+1 cc to M/s.R.Ezhilarasan, advocate, sr.60931

+1 cc to Government Pleader, sr.61602.

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