

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.37249 of 2016

V.Subramani

.. Petitioner

Versus

1.The Regional Transport Officer (I/c),
Mettupalayam,
Coimbatore District.

2.The Inspector of Police,
Annur Police Station,
Annur, Coimbatore District.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the impugned order of the first respondent made in R.No.35020/23/2016, 05.10.2016 for suspending the petitioner's Driving License bearing DL.No.TN-57-19890000362 for the period from 13.09.2016 to 12.03.2017 and to quash the same and consequently direct the first respondent herein to return the Driving License to the petitioner after removing the endorsement suspended forthwith.

For Petitioner : Mr.A.Ganesan

For Respondents : Mr.K.J.Shivakumar
Government Advocate

O R D E R

Heard Mr.A.Ganesan, learned counsel appearing for the petitioner and Mr.K.J.Shivakumar, learned Government Advocate, appearing for the respondents.

2. The petitioner is a driver in the Tamil Nadu State Transport Corporation, Coimbatore Division. While he was driving the vehicle bearing registration No.TN 38 N 3033, from Sathyamangalam to Coimbatore on 13.09.2016, the vehicle met with an accident near Ganesapuram Bus Stand, in which, motorcyclist was fatally injured and died in the KMC Hospital on 13.09.2016. A case was registered against the petitioner in Crime No.374 of 2016 under Section 279, 337 of IPC. On 04.07.2016, by the Annur Police Station. The petitioner was arrested and released on bail on the same day.

3. The petitioner's case is that the impugned order of suspension of the petitioner's Driving License is contrary to the law laid down by the Hon'ble Division Bench of this Court in W.A.(MD)No.374 of 2009 (P.Sethuraman Vs. The Licensing Authority, The Regional Transport Officer, Dindigul, wherein, it was held that till the conviction of the criminal case, the licensing authority will not have jurisdiction to retain the license or suspend the license.

4. The learned counsel appearing for the petitioner has also referred to an order passed in the case of S.Duraivelu V. The Regional Transport Officer, West Thambaram reported in 2013 Writ L.R. 843, wherein, the licensing authority was directed to release the driving license after removing the endorsement of suspension. At this juncture, it would be worthwhile to refer to the said decision. The operative portion of the said decision reads as follows:-

4. The issue raised by the petitioner is no longer res integra in view of the judgment of the Division Bench of this Court in P.Sethuram Vs. Licensing Authority, The Regional Transport Officer, The Regional Transport Office, Dindigul, reported in 2010 Writ LR 100. The Division Bench has made it very clear that the pendency of a criminal case would not give jurisdiction to the authority to cancel the license. The authority has to wait for the outcome of the criminal case. The Division Bench further held that only in the case the respondent would be in a position to prove the commission of cognizable offence which would attract Section 19(1) of Motor Vehicles Act, 1988, the license could be suspended.

5. The license of the petitioner was suspended solely on the ground that he was involved in a criminal case under Section 304-A IPC. The criminal case is still pending. The factum of involvement of the petitioner in an offence under Section 304-A of the Indian Penal Code would not give any jurisdiction to the respondent to suspend the license. Therefore, I am of the view that the respondent was not justified in suspending the license of the petitioner.

6. The respondents 1 and 2 are directed to release the license of the petitioner forthwith after removing the endorsement "Suspended" within one week from the date of receipt of a copy of this order."

5. In the light of the above, the Writ Petition is disposed of by directing the respondent to release the petitioner's license after removing the endorsement of suspension of the petitioner's license. However, this order will not preclude the respondents from initiating any action, if any of the contingencies specified in Motor Vehicles Act, arises later or if any of the Rules as prescribed by the Central Government, in pursuance of the provisions of the Act, are violated. The above direction shall be complied with by the respondents within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

r n s

To

1.The Regional Transport Officer (I/c),
Mettupalayam,
Coimbatore District.

2.The Inspector of Police,
Annur Police Station,
Annur, Coimbatore District.

+1 CC to Mr.A.Ganesan, Advocate Sr.No.69003

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BR(CO)
KP(27.12.2016)

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