

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 22226 of 2016

ORDER:

Heard learned Counsel for the petitioner and Government Pleader for Transport. With the consent of both the parties, the writ petition is taken up for disposal at the stage of admission.

The relief sought for in this Writ Petition is to declare the seizure of petitioner's vehicle bearing No.TS 08 UA 1729 vide vehicle check report No.348118, as illegal and arbitrary.

A consequential relief is sought to the respondents to release the vehicle to the petitioner.

The Government Pleader for Transport submits that an application filed by the petitioner for compounding the offence is still pending, as such the question of release of vehicle would not arise.

Learned counsel for the petitioner submits that compounding of offence should not come in the way of the authorities in releasing the vehicle and if ultimately the petitioner fails, further action as contemplated under law can be taken against the petitioner. Till such time no purpose would be served in detaining the vehicle.

Learned Government Pleader for Transport would further draw the attention of this Court to Section 194 of the Motor Vehicles Act, 1988, which relates to vehicle being driven with weight exceeding the permissible limit. Under sub-section (1) thereof, whoever drives a motor vehicle in contravention of the

provisions of Sections 113, 114 and 115 shall be punishable with a minimum fine of two thousand rupees, and an additional amount of one thousand rupees per tonne of excess load, together with the liability to pay charges for off-loading of the excess loading permissible weight.

In view of the aforesaid statutory provisions, ends of justice would be met if the Secretary, Regional Transport Authority concerned is directed to consider release of the subject vehicle to the petitioner on their fulfillment of the following conditions:

- 1) The petitioner shall deposit Rs.2,000/- and an additional amount of Rs.1,000/- per tonne of excess load;
- 2) The petitioner shall also pay the charges, intimated to them by the Secretary, Regional Transport Authority concerned, for off-loading of the excess permissible weight;
- 3) The petitioner shall furnish an undertaking to produce the subject vehicle as and when required to be produced before the jurisdictional Magistrate; and
- 4) The petitioner shall file proof of ownership and other valid documents including the proof of payment of the tax due before the Secretary, Regional Transport Authority concerned.

The Writ Petition is accordingly, disposed of. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

11.07.2016

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