



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 29.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

W.P (MD) No.7499 of 2017

WEB COPY

Shanmugaraj

... Petitioner

Vs.

- 1.The Superintendent of Police,
O/o. Superintendent of Police,
Madurai District,
Madurai.
- 2.The Deputy Superintendent of Police,
Samayanallur Sub-Division,
Madurai, Madurai District.
- 3.The Inspector of Police,
Samayanallur Police Station,
Samayanallur,
Madurai District.

4.Saravanan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to forbear the respondents 3 and 4 herein, from conducting Kattapanchayat and further direct the release of the vehicle bearing Registration No.TN-30-AA-6859, which had been illegally detained by the third and fourth respondents herein, on the basis of the petitioner's representation, dated 04.02.2017.

For Petitioner : Mr.A.Thiruvadi Kumar

For Respondents 1 to 3 : Mr.T.S.Mohammed Mohideen

Additional Government Pleader

O R D E R

The writ petition has been filed for a direction to forbear the respondents 3 and 4 herein, from conducting Katta Panchayat and for a further direction to release the vehicle bearing Registration No.TN-30-AA-6859, which had been illegally detained by the third and fourth respondent herein, on the basis of the petitioner's representation, dated 04.02.2017.

2. Heard Mr.A.Thiruvadi Kumar, counsel appearing for the petitioner and Mr.T.S.Mohammed Mohideen, Additional Government Pleader appearing for the respondents 1 to 3.



3. Today, Mr.S.Suresh Kumar, Sub Inspector of Police, Samayanallur Police Station, is present before this Court.

4. The petitioner is the owner of the vehicle, namely, Tata Multi Axle Vehicle, bearing Registration No. TN-30-AA-6859. His vehicle was requisitioned by the fourth respondent for transporting Nestle Milk Products from Salem to Tirunelveli. The said vehicle was driven by one Rajesh, the driver of the petitioner. The vehicle left Salem with the consignment on 21.01.2017, en route, the Driver observed that 49 boxes were found missing. Therefore, Rajesh informed the fourth respondent that somebody has stolen 49 boxes. The fourth respondent directed Rajesh to bring the vehicle to their office in Madurai and park it. Accordingly, Rajesh parked the vehicle in the office of the fourth respondent at Madurai. There were disputes between the fourth respondent and Rajesh, inasmuch as the 4th respondent took a stand that Rajesh was responsible for the 49 boxes and that he should pay Rs.2,37,639/- and take back the vehicle. Rajesh informed this to his owner, namely, the petitioner. The petitioner sent a representation dated 04.02.2017, through Registered Post with acknowledgement due to the Deputy Superintendent of Police, Madurai, alleging that the said vehicle is parked in the Madurai Office of the fourth respondent and that the Inspector of Police, Samayanallur Police Station, has conducted Katta panchayat and not releasing the vehicle. Since, no action was taken on the representation, Shanmugaraj, the petitioner herein filed the present Writ Petition on 20.04.2017 with the above prayer.

5. When the matter came up for admission on 21.04.2017, this Court issued the following order:

"Admit. Notice to the 4th respondent returnable by four weeks. Private notice is also permitted."

6. While so, Rajesh has given a police complaint, based on which, an FIR has been registered on 23.05.2017 in Crime No.242 of 2017, under Sections 379 and 424 IPC against the fourth respondent and he was arrested on 25.05.2017 and remanded to custody. In the complaint given by Rajesh, he has not whispered about the pendency of this Writ Petition in W.P.(MD) No.7499/2017. The Inspector of Police, Samayanallur Police Station, has not even conducted a minimum enquiry as to find out the actual dispute between the fourth respondent and the petitioner. Had he done that, he would have known that the said lorry is kept in the office of the fourth respondent in Madurai and that there is a dispute between them with regard to, who has to take the responsibility for the loss of 49 boxes. The Inspector of Police had shown undue alacrity in registering the FIR and arresting the fourth respondent.



7. The fact remains that this Writ Petition was admitted on 21.04.2017. In fact, the fourth respondent has been served with notice as early as on 24.04.2017. Therefore, the fourth respondent would have definitely told the Police about the pendency of Writ Petition before this Court, despite which, the Police have arrested the fourth respondent and remanded him to custody, which, in the opinion of this Court, is undoubtedly an abuse of power. Now, since the FIR has been registered in Crime No.242/2017, no orders can be passed in the present Writ Petition.

8. In the result, this Writ Petition is dismissed with liberty to the petitioner to work out his remedy in the manner known to law.

Sd/-

Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar

To

- 1.The Superintendent of Police,
O/o.Superintendent of Police,
Madurai District,
Madurai.
- 2.The Deputy Superintendent of Police,
Samayanallur Sub-Division,
Madurai, Madurai District.
- 3.The Inspector of Police,
Samayanallur Police Station,
Samayanallur,
Madurai District.

+1cc to Mr.A.Thiruvadikumar,Advocate,SR.62783
+1cc to M/S.Special Government Pleader,Advocate,SR.62888
+1cc to Mr.R.Karunanithi,Advocate,SR.62944

W.P (MD) No.7499 of 2017
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KM/RR

KK/MR KKR/SAR2-19.07.2017-3P-7C