

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.9797 of 2019
and
W.M.P.No.10401 of 2019

Somanathan
S/o.P.Subramani ...Petitioner

Vs

State by
Inspector of Police,
Tharamangalam Police Station,
Salem.
Crime No.728 of 2018 ... Respondent

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing respondent to return the petitioner's vehicle, viz., Ashok Leyland Tipper Lorry bearing Registration No.TN-30-L-2259 to the petitioner.

For Petitioner : Mr.R.Rajarathinam
For Respondent : Mr.J.Pothiraj
Special Government Pleader

O R D E R

[Order was delivered by R.SUBBIAH,J]

Petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus directing respondent to release the petitioner's vehicle, viz., Ashok Leyland Tipper Lorry bearing Registration No.TN-30-L-2259, seized by respondent on 29.12.2018.

2. Heard learned counsel for petitioner and learned Special Government Pleader for respondent.

3. Learned counsel for petitioner submits that respondent has seized the vehicle in question on 29.12.2018 on the ground of illegal carrying of River Sand in connection with Crime No.728 of 2018 on the file of respondent. The driver of the Lorry has filed Crl.O.P.No.628 of 2019 seeking anticipatory bail and this

Court has, under orders dated 10.01.2019, granted the relief with the condition to deposit Rs.60,000/- to the credit of District Mineral Foundation Trust, which has been complied with. Petitioner has filed a petition seeking return of property u/s.457 Cr.P.C. in C.M.P.No.90 of 2019 on the file of learned Judicial Magistrate, Omalur and the same was dismissed under orders dated 19.03.2019. Hence, he has come forward with the present Writ Petition.

4. On the other hand, it is submitted by learned Special Government Pleader for respondent that the vehicle in question was used for illegal transportation of mines and minerals like River Sand and hence, the vehicle was seized. He would further submit that petitioner has no previous case.

5. In any event, as the vehicle is under the custody of the respondent from the date of seizure and considering the fact that if the same is allowed to be kept idle by exposing the same to rain and shine, it would certainly diminish their value, this Court is of the view that the vehicle in question may be released by imposing conditions on the petitioner.

6. Accordingly, the respondent is directed to release the vehicle in question to the petitioner within a period of 7 days from the date of compliance of the below mentioned condition Nos.(i) to (iii):

- (i) Petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) before the jurisdictional Tahsildar concerned as non-refundable deposit. After receipt of the above said amount, the same will have to be deposited by the jurisdictional Tahsildar concerned, to the credit of the District Mines and Minerals Foundation Trust as non-refundable deposit.
- (ii) Petitioner shall execute a personal bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the concerned jurisdictional Judicial Magistrate.
- (iii) Petitioner shall give an undertaking before the respondent/authority concerned stating that he will not use the vehicle in question for any illegal activities in future and shall produce the same as and when required by the respondent and also the trial Court, failing which the respondent/trial Court is/are at liberty to confiscate the vehicle.
- (iv) Petitioner shall not alienate the vehicle in question till the disposal of the proceedings before the authority concerned.
- (v) Petitioner is also directed to participate in the enquiry to be conducted by the respondent.

With the above observations and directions, this Writ Petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS iii)

//True Copy//

Sub Assistant Registrar

gm

To

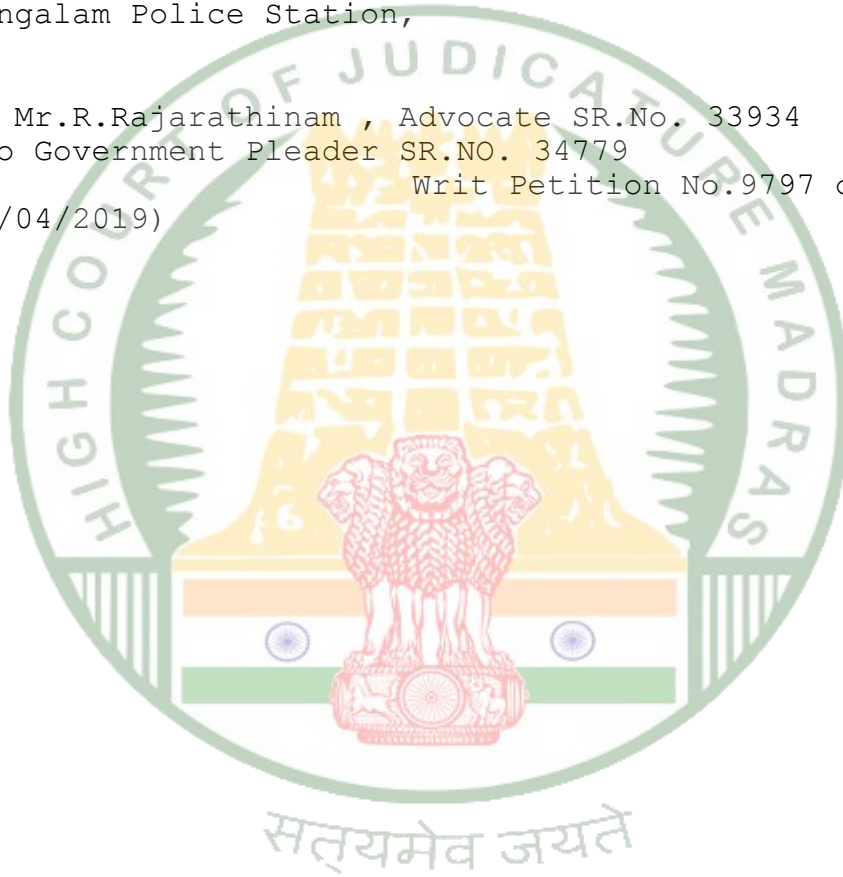
The Inspector of Police,
Tharamangalam Police Station,
Salem.

+1cc to Mr.R.Rajarithinam , Advocate SR.No. 33934

+1 cc to Government Pleader SR.NO. 34779

Writ Petition No.9797 of 2019

A.SK(16/04/2019)



WEB COPY