

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.05.2019

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.12556 of 2019

E.Pandiyan

... Petitioner

vs.

State rep.by
The Sub Inspector of Police,
Thakkolam Police Station,
Vellore District.
(Cr.No.122/2019)

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to release the petitioner's JCB bearing No.TN-02-V-0934 which was seized on 12.04.2019 by the respondent.

For Petitioner : Mr.K.S.Arumugam

For Respondent : Mr.Akhil Akbar Ali
Government Advocate

O R D E R

(Order of the Court made by S.VAIDYANATHAN, J)

The sum and substance of the issue involved in this Writ Petition is with regard to the seizure of vehicle alleged to be involved in the illegal transportation of sand and sand quarry in the river.

2. The Madurai Bench of this Court has passed two orders, one in W.P.(MD) Nos.22023 to 22026 of 2018 etc, batch, dated 29.10.2018 and another in W.P.(MD).No.19936 of 2017 etc batch, dated 29.10.2018, imposing certain conditions, including conditions for release of vehicles.

3. In the first order stated above, dated 29.10.2018 passed in W.P.(MD).Nos.22023 to 22026 of 2018 etc batch, one of the

conditions is that the lorry owners will have to deposit a sum of Rs.50,000/- before the Tahsildar concerned as non-refundable deposit, so that the concerned Authority can consider the request of the petitioners for releasing the seized vehicles. Further, the Division Bench of this Court directed the Tahsildar concerned to file a private complaint in terms of Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957, before the jurisdictional Court within a period of one week from the date of receipt of a copy of the said order. The Division Bench further observed that the observation will apply to those cases, where FIRs have been registered by the jurisdictional police for the offences under Section 379 IPC, in which case, the vehicles will be produced before the jurisdictional Magistrate. In such cases, the jurisdictional Tahsildars, on receipt of the same, shall file private complaint for the alleged violation under the Mines and Minerals (Development and Regulation) Act, 1957. The Police concerned will have to give such due intimation, within a period of one week. The petitioners therein were directed to produce the vehicles before the trial court as and when required.

4. In the second order passed by the Madurai Bench of this Court in W.P.(MD).No.19936 of 2017 etc batch, the Division Bench pointed out that insofar as the seized vehicles are concerned, they shall be produced before the concerned Magistrate Court, by the Revenue authorities at the time of filing their respective complaints and that any application for release of vehicle etc, can only be filed before the Special Court. Thus, as far as the release of vehicle is concerned, the Madurai Bench of this Court has observed that on complying the conditions stated in the order dated 29.10.2018 passed in WP(MD).No.19936 of 2017 etc, batch, the Special court would consider the release of vehicle.

5. It has been represented by the learned counsel appearing on either side that the Special Court has not been constituted and that the request made by one of the vehicle owners with regard to release of vehicle based on the order of Madurai Bench of this Court dated 29.10.2018, was rejected by the learned Judicial Magistrate, Thiruvottiyur, in the order passed in C.M.P.No.6568 of 2018 in Crime No.1128 of 2018 on the ground that the Court has no jurisdiction and that they have to approach the Special Court. This Court has also clarified the said position in its orders dated 27.12.2018 and 29.04.2019 made in W.P.No.34656 of 2018.

6. In view of the above, more particularly taking note of the fact that Special Courts have not yet been constituted in terms of the order dated 29.10.2018 passed in W.P.(MD).No.19936 of 2017, etc batch, this Court directs the learned Jurisdictional Magistrate concerned to consider the request for

release of the vehicle in question and pass appropriate orders in accordance with law at the earliest point of time, after hearing the parties. It is open to the writ petitioner to approach the Jurisdictional Court. The Jurisdictional Court is expected to decide the matter, as expeditiously as possible. We make it clear that the above condition/concession shall be effective only till the constitution of the Special Courts.

In the result, this writ petition stands disposed of with the above direction. No costs.

Sd/-
Assistant Registrar (VO)

//True copy//

Sub Assistant Registrar

dpq/ay

To

1.The Sub Inspector of Police,
Thakkolam Police Station,
Vellore District.

Copy To
The Judicial Magistrate, Vellore

+1cc to Mr.K.S.Arumugam, Advocate SR.No.43403

+1cc to Government Pleader SR.No.43419

W.P.No.12556 of 2019

MN (CO)
GMY (20/05/2019)

सत्यमेव जयते

WEB COPY