

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.01.2019

CORAM

THE HON'BLE MR JUSTICE M. SATHYANARYANAN
AND
THE HONOURABLE MR. JUSTICE P. RAJAMANICKAM

W.P.Nos.34503 and 34504 of 2018

R. Pandian ... Petitioner in both the petitions

Vs

1. The Government of Tamil Nadu
rep by its Secretary,
Non Ferrous Mining and
Metallurgical Industries,
Ezhilagam,
Chennai - 600 005

2. The District Collector,
Ariyalur

3. The Inspector of Police,
Vickramangalam Police Station,
Ariyalur District

... Respondents in both the petitions

Writ Petitions filed under Article 226 of Constitution of India praying this Court to issue Writ of Mandamus directing the respondents particularly the Inspector of Police, Vickramangalam Police Station, the 3rd respondent herein to release the vehicles Earth Moving Equipment (JCB) bearing Registration TN-61-M-9091 Engine No.HAR3DXSSE02593942 and TN-61 M-9929 Engine No.JGHZ408054 (Tipper) Multi Axle Goods Vehicles of the petitioner and the same were seized by the 3rd respondent on 08.09.2018 for the alleged transportation of illegal sand in the vehicles.

For petitioner : Mr.M. Balaji

For respondents : Mr.E. Manoharan
AGP

ORDER

(Order of the Court was made by M. SATHYANARAYANAN, J.,)

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner claims to be the owner of the vehicles bearing Registration TN-61-M-9091 Engine No.HAR3DXSSE0293942 and TN-61 M-9929 Engine No.JGHZ408054 (Tipper) Multi Axle Goods Vehicles and the vehicles were engaged for transporting sand. According to him, on 08.09.2018, when the vehicles were transporting sand near Rettipalayam, they were seized by the third respondent on the ground that the vehicles have been used for illegal transportation of sand and a case in Crime No.200 of 2018 was registered by the Inspector of Police, Ariyalur Police Station for the alleged commission of offence punishable under Section 379 IPC r/w. Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957. The petitioner would state that he is no way connected with the alleged commission of the said offences and the only allegation is that the quarry owner said to have forged the bills and as such, the petitioner cannot be mulcted with any criminal liability

3. The learned counsel appearing for the petitioner would submit that after seizure, the petitioner made a representation before the third respondent on 24.11.2018 praying to release the vehicles, but still the respondents have not released the lorry. The learned counsel appearing for the petitioner would further submit that the petitioner is eking out his livelihood out of the income earned from operating the vehicles and since the vehicles have been seized as early as on 08.09.2018 and parked in open space, there is likelihood of getting rusted or damaged on account of vagaries of weather and hence, the petitioner is left with no other alternative except to approach this Court by filing these writ petitions and therefore, prays for appropriate direction for release of the said vehicles.

4. Per contra, Mr.E.Manoharan, learned Additional Government Pleader, who accepts notice on behalf of the respondents, would submit that the allegations in the F.I.R. are serious in nature and since a criminal case has also been registered, the vehicles cannot be released and prays for dismissal of this writ petition.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. This Court, upon hearing the rival submissions and on going through the materials, especially the averments made in the affidavit filed in support of these writ petitions, is inclined to order the release of the vehicles, in question, by way of interim custody to the petitioner, subject to the following conditions:

- (i) The petitioner shall produce relevant documents before the respondent to establish the ownership of the vehicles in question;
- (ii) The petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty five thousand Only) each to the credit of Cr.No.200 of 2018 before the learned Judicial Magistrate No.I, Jayamkondam.
- (iii) The petitioner shall give an undertaking that he will not use the vehicles for any other illegal/unlawful activities in future and he will not alienate/encumber the vehicle in question till the disposal of the proceedings before the authority concerned and he will produce the same as and when required by the respondents/jurisdictional police/jurisdictional Magistrate.
- (iv) The petitioner shall also execute a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties in a like sum to the satisfaction of the learned Judicial Magistrate No.I, Jayamkondam.

7. On complying with the conditions imposed in this writ petition, the respondent is directed to release the vehicle Earth Moving Equipment (JCB) bearing Registration TN-61-M-9091 Engine No.HAR3DXSSE0293942 and TN-61 M-9929 Engine No.JGHZ408054 (Tipper) Multi Axle Goods Vehicles to the petitioner forthwith. In case of violation of any of the conditions aforesaid, it is open to the respondent to initiate appropriate action for seizure of the vehicle.

8. The Writ Petitions are disposed of accordingly. No costs
sr

sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Government of Tamil Nadu
rep by its Secretary,
Non Ferrous Mining and
Metallurgical Industries,
Ezhilagam, Chennai - 600 005

2. The District Collector,
Ariyalur

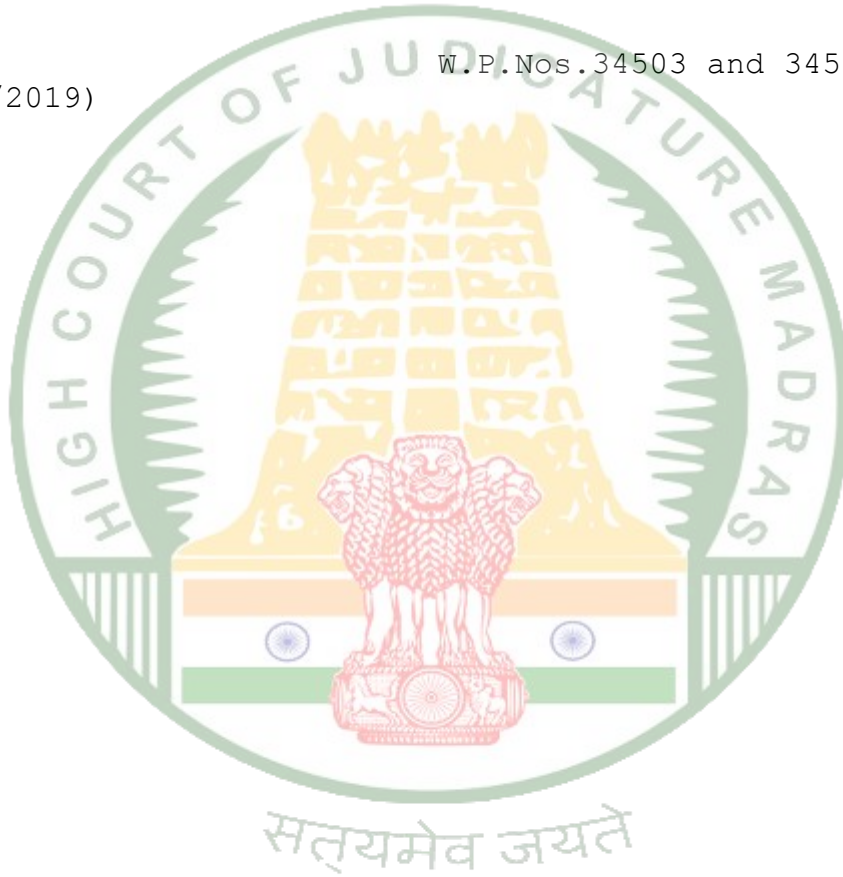
3. The Inspector of Police,
Vickramangalam Police Station,
Ariyalur District

+1cc to Mr.M.Balaji, Advocate, S.R.No.7476

+1cc to the Government Pleader, S.R.No.7269

Kak(18/03/2019)

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