



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.11639 of 2020

N.Raman

...Petitioner

Vs.

1.The Revenue Divisional Officer,
Thoothukudi,
Thoothukudi District.

2.The Assistant Director,
Department of Mines and Minerals,
Thoothukudi District.

3.The Inspector of Police,
Serakulam Police Station,
Thoothukudi District.
Crime No.100/2020

...Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to release the petitioner's vehicle namely Tata Tipper Lorry bearing Registration No. TN 25 Q 2232 by considering the representation dated 07.09.2020, made by the petitioner within the time stipulated by this Court.

For Petitioner : Mr.I.Pinaygash

For Respondents : Mrs.S.Srimathy

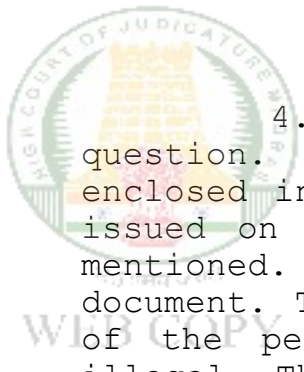
Special Government Pleader

O R D E R

Heard the learned counsel on either side. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner seeks release of the petition mentioned vehicle. The vehicle has been seized on account of its involvement in Crime No.100 of 2020, registered on the file of the third respondent police station for the offences under Sections 379 of IPC and 21(1), 21(4) of Mines and Minerals (Development & Regulation) Act, 1957.

3. The learned Special Government Pleader appearing for the respondents states that when the vehicle was seized and inspected, no document was produced by the accused. The learned Special Government Pleader further states that even though the criminal case has been registered, the vehicle in question is yet to be produced before the jurisdictional Court. The case is still under investigation.



4. The petitioner is said to be the owner of the vehicle in question. The bill issued by K.R. Crusher Blue Metals has been enclosed in the typed set of papers. It is seen that the bill was issued on the previous day at 10.53pm. GST number has also been mentioned. Details of the vehicle were also found in the said document. Therefore, there is prima facie force in the contention of the petitioner's counsel that the transportation is not an illegal. The petitioner's counsel states that river sand was not transported. What is actually transported is only rough stones.

5. The petitioner's counsel gives an undertaking that the petitioner will see to it that the vehicle is not involved in any other offences of similar nature. The vehicle will be produced before the authority or the Court concerned as and when required. The learned counsel appearing for the petitioner states that the vehicle will not be alienated.

6. The submission of the learned counsel for the petitioner is placed on record. If the undertaking given before this Court is breached, the benefit of this order will stand recalled and the vehicle in question will be taken back to custody and it will be released only after getting orders from this Court on such terms as this Court may deem it fit to impose.

7. I am of the view that keeping the petition mentioned vehicle in the custody of the respondents is not going to serve any purpose. The Hon'ble Supreme Court in the decision reported in (2002) 10 SCC 283 (Sunderbhai Ambalal Desai and Others V. State of Gujarat) has held as follows:-

"17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."

8. Therefore, I am of the view that without imposing any cost, the vehicle can be directed to be released. The respondents are directed to release the said vehicle subject to the following conditions:-

- a) The petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed.*
- b) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle.*



c) As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the respondents.

9. Upon completion of these formalities, the respondents shall release the vehicle forthwith without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future. The Writ Petition is allowed accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Revenue Divisional Officer,
Thoothukudi,
Thoothukudi District.
- 2.The Assistant Director,
Department of Mines and Minerals,
Thoothukudi District.
- 3.The Inspector of Police,
Serakulam Police Station,
Thoothukudi District.

+1 CC to M/s.SPL GP (SR-17157[F] dated 16/09/2020)

W.P. (MD) No.11639 of 2020
15.09.2020

KMV(CO)

KB(23.09.2020) 3P 5C