



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.16687 of 2020
(Through Video Conference)

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Dhanapandiyan

... Petitioner

Vs

1) The Revenue Divisional Officer,
Revenue Divisional Office,
Madurai District.

2) The Assistant Director,
Geology and Mining Department,
Madurai District.

3) The Inspector of Police,
Checkanurani Police Station,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to release the petitioner's Lorry bearing Registration No.TN 58 AB 0776 from the custody of the third respondent on the basis of the petitioner's representation dated 02.11.2020 within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.M.Vivek Kumar

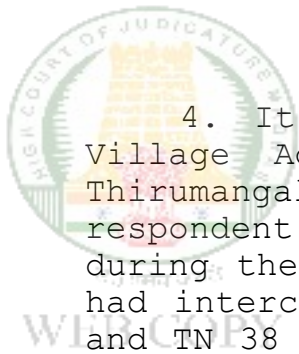
For Respondents : Mr.C.Ramesh,
Special Government Pleader

O R D E R

This writ petition has been filed for a Mandamus to direct the respondents to release the petitioner's Lorry bearing Registration No.TN 58 AB 0776 from the custody of the third respondent on the basis of the petitioner's representation dated 02.11.2020 within a stipulated time that may be fixed by this Court.

2. Heard Mr.M.Vivek Kumar, learned counsel appearing for the petitioner and Mr.C.Ramesh, learned Special Government Pleader appearing for the respondents.

3. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

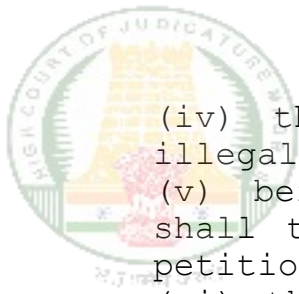


4. It is the case of the petitioner that one M.Duraipandi, Village Administrative Officer (V.A.O.), Ponnangalam Village, Thirumangalam Taluk Madurai District, lodged a complaint before the respondent police stating that on 06.10.2020 at about 5:00 a.m. during the usual patrol conducted near Amsaveni Quarry, the V.A.O. had intercepted two lorries bearing registration Nos.TN 58 AB 0776 and TN 38 AM 8518 and questioned the drivers of the vehicles about the over time of transportation of sand, wherein, the drivers confessed that based on the instruction of their Manager, the waste gravel/ waste slime sand will be transported many times with single trip sheet. Based on the same, complaint was received and a case was registered under Section 379 of IPC and Section 21(5) of Mines and Minerals (Development & Regulation) Act, 1957 in Crime No.1903 of 2020 against the petitioner's vehicle. The petitioner's vehicle was seized by the third respondent Police on the same date.

5. It is the contention of the petitioner that the vehicle of Lorry bearing Registration No.TN 58 AB 0776 has also not been produced by the third respondent Police before the concerned Jurisdictional Court. According to the petitioner, the seized Lorry bearing Registration No.TN 58 AB 0776 is now being kept in the open place and due to exposure of sun and rain and the vagaries of nature, the vehicle of Bolero Maxi truck Plus will lose its value and may, ultimately become a wreck and worthless. In such circumstances, this Writ Petition has been filed seeking for release of the said vehicle of Lorry bearing Registration No.TN 58 AB 0776.

6. The petitioner has also given a representation on 02.11.2020 to the respondents seeking for release of the said vehicle of Lorry bearing Registration No.TN 58 AB 0776. According to the petitioner, the said representation has not been considered by the respondents till date. As rightly contended by the petitioner, if the vehicle of Lorry bearing Registration No.TN 58 AB 0776 which was seized by the third respondent, is kept in the open place, it will not be useful to anyone in the near future and if it is continued to remain in the open, it has to face the vagaries of nature and ultimately will become a wreck and worthless. However, whether the petitioner has committed the alleged offence or not can be adjudicated only after trial before the Criminal Court. Till such time, the vehicle cannot be kept idle. Therefore, this Court is inclined to grant similar relief to the petitioner subject to fulfillment of the following conditions:-

- (i) the petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** in favour of the first respondent within a period of two weeks from the date of receipt of a copy of this order;
- (ii) the petitioner shall not alienate or encumber the vehicles in question till the proceedings are completed;
- (iii) the petitioner shall not change the colour and scheme



- (iv) the petitioner shall not use the vehicles for any illegal activities;
- (v) before releasing the vehicles, the police authority shall take photographs of the vehicles at the cost of the petitioner;
- (vi) the petitioner shall produce all xerox copies of the documents pertaining to the ownership of the seized vehicles to the first respondent; and
- (vii) as and when the respondents call for the vehicles for enquiry, the petitioner has to produce the vehicles in question and he shall cooperate with the enquiry to be conducted by the respondents.

7. Upon completion of the above mentioned formalities, the respondents shall release the Lorry bearing Registration No.TN 58 AB 0776 to the petitioner forthwith and without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled for interim release of the vehicle in the future. As far as confiscation proceedings initiated against the seized vehicle are concerned, the same can go on without any interference.

8. The Writ Petition is disposed of accordingly. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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,
Revenue Divisional Office,
Madurai District.
- 2) The Assistant Director,
Geology and Mining Department,
Madurai District.



3) The Inspector of Police,
Checkanurani Police Station,
Madurai District.

+1 CC to Spl GP (SR-22977[F] dated 26/11/2020)

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Order made in
W.P. (MD) No.16687 of 2020
24.11.2020

VB (08.12.2020) 4P 5C