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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.NO.38917 OF 2016

&

W.M.P.NO.25967 OF 2017

S.Babu.

... Petitioner

Vs.

1. The Superintendent of Police,
Vellore District.
2. The State Represented by
Inspector of Police,
Tirupathur Town Police,
Vellore District.
3. The United India Insurance Company Limited,
No.24, Whites Road, Chennai -14.

... Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing 2nd respondent issue non-traceable certificate for petitioner bike is Hero Honda Passion Pro bearing registration No.TN 23 BX 2459 with Chasis No.MBLHA10EWAG018313, Engine No.HAIOEDAGD15657.

For Petitioner	:	Mr. I.Abrar Mohamed Abdullah
For Respondents 1 & 2	:	Mr. C.Jayaprakash Government Advocate
For Respondent 3	:	Mr.P.Sankaranarayanan

O R D E R

The relief sought for in the present Writ Petition is to direct the 2nd respondent to issue non-traceable certificate for the petitioner's bike Hero Honda Passion Pro bearing Registration No. TN 23 BX 2459.



2. The petitioner states that on 26.02.2012 he took his two wheeler, Hero Honda Passion Pro bearing Registration No.TN 23 BX 2459 to prayer meeting held in CSI Church at Tirupattur between 9 a.m and 11 a.m. The petitioner would submit that after the prayer, he found that his vehicle was missing. Thereafter, on 05.03.2012, the petitioner lodged a complaint before the 2nd respondent, Police Station. The reason for delay in lodging the complaint has not been stated in the affidavit filed in support of the Writ Petition.

3. However, the learned Government Advocate brought to the notice of this Court that the vehicle belongs to the petitioner was seized / confiscated on 10.07.2012 and the Police Authorities found that the stolen vehicle's Chasis and Engine numbers were modified by the accused persons. The complaint was registered in Crime No.301 of 2012 and the final report was filed. Thereafter, Trial in C.C.No.33 of 2013 was conducted.

4. A perusal of the Judgment of the Criminal Court reveals that the prosecution could not able to establish the offence of theft and also the vehicle which was seized from the accused person is that of the petitioner. The petitioner also has clearly deposed before the Criminal Court that the said vehicle is a different one and not belongs to him. Considering the evidence available, the Criminal Court acquitted the accused on benefit of doubt and also on the ground that the prosecution has not established the offence of theft.

5. Under these circumstances, the learned counsel for the petitioner made a submission that the non-traceable certificate ought to be issued to the Writ Petitioner enabling him to get proper relief under the insurance claim or otherwise.

6. The respondent filed a counter stating that the accused himself confess his involvement in this offence and based on his confession statement and based on the investigation conducted in this regard it was decided by the inquiry officer that vehicle seized in this case belonged to the defacto complainant, who is the Writ Petitioner. The accused who involved in the vehicle theft case immediately alter the vehicle's physical condition by altering engine number and chasis number, which results in difficulty in identifying the theft vehicle. Thus, the 2nd respondent could not concede the request of the petitioner for issue of non-traceable certificate in respect of vehicle bearing registration no. TN 23 BX 2459.

7. This Court is of the considered opinion that an elaborate inquiry or adjudication cannot be done in this aspect in a writ proceedings under Article 226 of the Constitution of India. No doubt the petitioner / defacto complainant lodged a complaint



after nine days from the missing of his vehicle. Thereafter, a criminal case was registered and the order of acquittal was passed against the accused person.

8. The respondent Police made a submission that as soon after commission of offence of theft by the accused persons they immediately change the character of the vehicle by altering the Engine Number and Chasis Number etc., and it would be very difficult for the Police authorities to identify the stolen vehicle on many occasions.

9. This Court is of the considered opinion that the accused persons no doubt would adopt such procedure, i.e., altering the character of the vehicles, for the purpose of escaping from the criminal cases. However, the Police Authorities are bound to conduct further enquiry in this regard to identify the vehicle belongs to the petitioner.

10. No doubt, sometimes it may not be possible to co-relate the Engine Number and Chasis Number and under those circumstances the Police Authorities are also helpless. In such circumstances, practical and pragmatic approach is required. The stand of the petitioner cannot be followed as he could not able to identify his vehicle.

11. Under these circumstances, this Court is of the considered opinion that the respondent, Police has to conduct further enquiry to identify the vehicle belongs to the petitioner and if the vehicle is not identified, then proper non-traceable certificate has to be issued. The Criminal Court in its Judgment categorically held that the offence of theft was not established and the petitioner also has deposed that the vehicle produced before the Criminal Court was some other vehicle and not belongs to him. This being the factum, the Police Authorities are bound to continue the investigation.

12. In paragraph no.11 of the counter affidavit, the respondent Inspector of Police has clearly stated that the case has ended with the order of acquittal and under the Code of Criminal Procedures the investigating officer is not vested with any power to issue the non-traceable certificate since the investigation is not pending with crime No.301 of 2013.

13. It is further contended that in the event of granting permission the deponent of the counter affidavit / Inspector of Police, Thirupathur Town Police Station, Vellore, is willing and ready to get report from the scientific expert after examination of the vehicle bearing registration No.TN 23 BX 2459 (bearing chasis no.No.MBLHA10EWAG018313 and Engine No.HAIOEDAGD15657), in respect of whether any tampering of engine and chasis numbers



which was not admittedly carried out by the investigating officer during the course of investigation in the aforesaid crime number.

14. In view of the fact that the Inspector of Police, Thirupathur Town Police Station, Vellore is ready to conduct scientific examination and get a report from the scientific expert this court has to consider the said aspect also. Further reasons for the delay of 9 days in lodging a Criminal complaint must be explained by the petitioner to the respondents, enabling them to proceed further.

15. Accordingly, the Inspector of Police / 2nd respondent is directed to get a report from the scientific expert after examination of the vehicle bearing registration No.TN 23 BX 2459 (bearing chasis no.No.MBLHA10EWAG018313 and Engine No.HAIOEDAGD15657) and take a final decision and consider the claim of the petitioner. The said exercise is directed to be done as expeditiously as possible.

16. With these observations, this Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

shr/kan

To

1. The Supreintendent of Police,
Vellore District.
2. The Inspector of Police,
Tirupathur Town Police,
Vellore District.
Vellore District.



3. The United India Insurance Company Limited,
No.24, Whites Road, Chennai -14.

WEB COPY

+1cc to Mr.I.Abrar Mohamed Abdullah, Advocate, S.R.No.62542

+1cc to Mr.P.Sankaranarayanan, Advocate, S.R.No.62909

+1cc to the Government Pleader, S.R.No.63013

W.P.No.38917 of 2016

GPL (CO)
PM/13/12/2021