



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.15880 of 2021

Usha Rani

... Petitioner

-Vs-

1. The Deputy Commissioner of Police,
Law and Order (L&O),
Madurai City,
Madurai.

2. The Superintendent of Police,
Enforcement Wing,
Madurai Zone,
Madurai.

3. The Sub-Inspector of Police,
Prohibition and Enforcement Wing,
Madurai City,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider the petitioner's reply dated 19.08.2021 to the show cause notice issued by the 1st respondent in Na.Ka.No.392/DC/L&O/MC/2021 dated 16.07.2021 and to release the petitioner's vehicle LETS SUZUKI bearing registration number TN 65 AF 2489 which was seized by the 3rd respondent on 15.05.2021 in Cr.No.1046 of 2021 on the file of the 3rd respondent forthwith.

For Petitioner : Mr.K.Vadivelu

For Respondents : Mr.D.Gandhiraj
Government Advocate

O R D E R

The prayer sought for in this Writ Petition is for a Writ of Mandamus, directing the respondents to consider the petitioner's reply dated 19.08.2021 to the show cause notice issued by the 1st respondent in Na.Ka.No.392/DC/L&O/MC/2021 dated 16.07.2021 and to release the petitioner's vehicle LETS SUZUKI bearing registration number TN 65 AF 2489 which was seized by the 3rd respondent on 15.05.2021 in Cr.No.1046 of 2021 on the file of the 3rd respondent.

2.The case of the petitioner is that, the petitioner's vehicle that is two wheeler LETS SUZUKI bearing registration No. TN 65 AF 2489, was seized by the respondent police for allegedly involving the vehicle in respect of an offence on the file of the respondent



police in FIR No.1046 of 2021 dated 15.05.2021 and in order to get release of the vehicle by way of interim custody, since the vehicle is still in the custody of the third respondent police and has not been confiscated, the petitioner has approached this court seeking indulgence.

WEB COPY

3.It is the further case of the petitioner that, the vehicle is continuously kept under the custody of the respondent police. He further submits that, due to exposure to sunlight and rain, the value of the vehicle would get diminished. Therefore, the vehicle can be directed to be released to the petitioner. Learned Counsel for the petitioner further submits that whatever condition this Court imposes, the petitioner is ready to abide by the same.

4.Heard Mr.D.Ghandiraj, learned Government Advocate (Civil Side), appearing for the respondent, who would submit that, insofar as the said case is concerned, investigation is still pending and if the vehicle is directed to be released, the petitioner may tamper the vehicle and sell or create any third party right. Further, after the completion of the investigation, the vehicle has to be produced before the concerned Magistrate which may be difficult, if the vehicle is now ordered to be released. Therefore, for such reason, he wants the vehicle to be retained.

5.I have heard the submissions made by both the learned Counsels and I have perused the materials placed before this Court.

6.Insofar as the said criminal case is concerned, even according to the respondent, the investigation is still pending and whether the person against whom such case was imposed has committed the offence or not has to be thoroughly investigated and the charge sheet should be filed, which may take some time. In the meantime, as rightly pointed out by the learned Counsel for the petitioner, the vehicle may get exposed to sunlight and rain and by then, the value of the vehicle would get diminished. Therefore, it would be appropriate that the vehicle is released from the custody of the respondent police. In such a case since the vehicle has not been produced so far before the learned Magistrate Court for custody, this Court can very well make an order to release the vehicle for interim custody to the petitioner, who is the owner of the vehicle concerned. In order to meet the apprehensions made by the learned Government Advocate, that the vehicle may be exploited during the investigation, the following conditions are made:

"The respondents are directed to consider the representation of the petitioner and the vehicle bearing Registration No.TN 65 AF 2489, shall be given to the petitioner for interim custody on condition that the petitioner shall surrender all original documents pertaining to the said vehicle to the respondent police



and the vehicle shall not be exploited or no third party right shall be created until further orders and the petitioner shall give an undertaking in writing to the respondent police to produce the said vehicle whenever it is required for investigation and for further purposes in the said case as and when required by the respondents."

7. With the above conditions, the vehicle in question shall be released to the petitioner as an interim custody within a period of one [1] week from the date of receipt of a copy of this order.

8. With the above direction, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pnm/MR

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 Deputy Commissioner of Police,
Law and Order (L&O),
Madurai City, Madurai.
2. The Superintendent of Police,
Enforcement Wing,
Madurai Zone, Madurai.
3. The Sub-Inspector of Police,
Prohibition and Enforcement Wing,
Madurai City, Madurai.

+1 CC to M/s.K.VADIVELU, Advocate (SR-28218[F] dated 06/09/2021)

+1 CC to M/s.SPL GP (SR-28325[F] dated 07/09/2021)

W.P. (MD)No.15880 of 2021

06.09.2021