



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.10.2021

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P (MD) No.18324 of 2021

Dr.R.V.S.Surendhiran

... Petitioner

Vs.

1.The Commissioner,
Trichy Municipal Corporation,
Trichy.

2.M.Dhayanithi,
Assistant Commissioner,
Ponmalai Division,
Trichy Municipal Corporation,
Trichy.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st Respondent to consider the petitioner's representation dated 24.08.2021 to take appropriate departmental action against the 2nd respondent and pass such other and further order as this Court.

For Petitioner : Mr.R.Murugapoopathy

ORDER

This petition has been filed for issuance of a Writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 24.08.2021 to take appropriate departmental action against the second respondent.

2. According to the petitioner, the petitioner is a General Medical surgeon and running the Devaki hospital in Karaikudi. The petitioner has purchased a car (Maruti Baleno 2004 model) on 26.03.2004 bearing Registration Number TN 63 W 9292, Engine No. G163BN-502916 and Chasis No: MA3EEJ91300 and sold the same to one S.A.Rajkumar on 19.10.2013 and signed in FORM 29 & 30 to transfer the ownership of the vehicle and issued Delivery Note, Receipt to the Purchaser. The same was reported to the RTO by him and the sale of the above said car was also reflected in his income tax returns. Then the petitioner came to know that the second respondent, M.Dhayanithi purchased the above said car from S.A.Rajkumar on 09.11.2016 and drove the above said car and hit one V.Rajalingam, resulting in Cr.No.603/2016 was registered



against second respondent by Samyapuram Police Station. The petitioner has requested the second respondent to transfer the ownership of the aforesaid car but he refused to do so. The petitioner came to know that the second respondent has submitted a forged proposal form bearing his forged signature before the United India Insurance Private Limited and renewed the insurance on 05.01.2017 and the same was expired on 24.03.2019 but the second respondent willfully refused to do so. The second respondent is plying the vehicle without adhering the mandatory provisions of Tamilnadu Motor Vehicle Act 1988. The petitioner was informed that he has become responsible for the aforesaid fault made by the second respondent. Therefore he filed a Crl.O.P (MD) 3323/2015 registered a criminal case as against the second respondent and the case was registered as Cr.No.376/2015 punishable under section 166 & 167 IPC by Government Hospital Police Station, Trichy. The petitioner has made a representation dated 24.08.2021 to take disciplinary action against the second respondent to the first respondent. So far, no action has been taken against the second respondent. Hence, the petitioner has filed the writ petition before this Court.

3. The grievance of the petitioner is that he has sold the vehicle [Maruti Baleno 2004 Model Car] bearing registration No. TN63-W9292, to one S.A.Rajkumar and thereafter the said vehicle was sold to one Dhayanithi, the second respondent herein. The second respondent is working as a Assistant Commissioner in Trichy Municipal Corporation and according to the petitioner, while the alleged occurrence took place on 09.11.2016, the second respondent was the owner of the vehicle, but so far transfer of ownership of the vehicle was not effected by the second respondent. In this regard, the petitioner has made a criminal complaint before the concerned jurisdictional police, which was registered in Cr.No.376/2015 for the offences punishable under Sections 166 and 167 I.P.C. As of now, no adverse order has been passed by any Court of Law as against the second respondent. Except lodging of criminal complaint and registration of F.I.R., no other material has been produced by the petitioner to substantiate that suitable direction be given by this Court to the first respondent to take action against the second respondent.

4. This Court is of the view that disputed question of facts cannot be gone into in a writ petition and it is for the first respondent to take appropriate action against the second respondent in the manner known to law and this Court cannot issue any positive direction in the absence of sufficient materials. If any adverse materials are available as against the second respondent, it is always open to the petitioner to communicate the same to the first respondent for taking disciplinary action against the second respondent. Therefore, no *Prima facie* case has



been made out. Hence, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

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/ /2021

Sub Assistant Registrar (CS)

mnr

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 Commissioner,
Trichy Municipal Corporation,
Trichy.

2.M.Dhayanithi,
Assistant Commissioner,
Ponmalai Division,
Trichy Municipal Corporation,
Trichy.

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TP (CO)
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