



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD)No.16571 of 2014

and

M.P(MD)No.1 of 2014

(Through video Conference)

T.Sumesh Kumar

.. Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

3.The Regional Transport Officer,
Kanyakumari District,
Nagercoil.

4.The Manager,
Jehova Motors,
T.V.S.Agency, Marthandam Road,
Karungal Post,
Kanyakumari District.

5.R.Dennison

6.T.Rajendran

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 1st and 2nd respondents to take appropriate legal action against the respondents 4 to 6 based on the petitioner's complaint, dated 31.12.2013 and 28.01.2014 by recovering the petitioner's TVS Apache RTR 160 B.S.III motorcycle bearing the registration No.TN-75-P-4341 from the 5th respondent and hand over to the petitioner immediately.

For Petitioner : Mr.Ananth C.Rajesh

For R1 to R3 : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

O R D E R

This writ petition is filed seeking mandamus directing the respondents 1 and 2 to take appropriate action against the respondents 4 to 6 based on the petitioner's complaint, dated 31.12.2013 and 28.01.2014 alleging that the motor bike bearing registration No.TN-75-P-4341 TVS APACHE is illegally kept by the fifth respondent.



2. The affidavit filed along with the writ petition indicates that the petitioner is the owner of the two wheeler APACHE bearing Registration No.TN-75P-4341 is employed under the sixth respondent as sound service operator for a daily wage of Rs.600/-. On 07.12.2013, the sixth respondent snatch away the two wheeler from him since he demanded his wage arrears of Rs.13,500/-. Regarding this he gave a complaint to the Pudukkottai police on 08.12.2013. The police has not taken any effective steps to recover two wheeler and to get back the salary arrears from the sixth respondent. The subsequent complaint sent through post was also not acted upon. Meanwhile, the sixth respondent has handed over the two wheeler to the fifth respondent.

3. According to the petitioner, the two wheeler was purchased by him from the fourth respondent on paying margin money of Rs.41,000/- for the balance amount, the fourth respondent promise to arrange loan from Federal Bank, Marthandam Branch, but contrarily, the loan was arranged from the private party/the fifth respondent. The fourth respondent and the fifth respondent had obtained several unfilled cheques from him. In the said circumstance, he has filed the present writ petition seeking mandamus to recover his motorcycle.

4. The free reading of the affidavit clearly shows that the petitioner herein has come with unclean hands with an innocuous prayer as if his vehicle was forcibly snatched away by the fourth respondent and handed over to the sixth respondent, when he demanded his wage arrears, but in fact the documents admittedly relied by the petitioner indicates that the petitioner herein has purchased the vehicle on loan and executed documents including cheques. For arrears of installment, the vehicle has been seized.

5. The writ petition seeking mandamus for the District Collector and the Superintendent of Police to retrieve his vehicle is not conceived by right spirit. Since the writ petition is misconceived and filed with suppression of facts, this Court finds no merits to entertain the same.

6. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

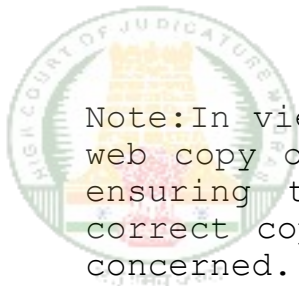
Assistant Registrar (AD-I)

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/ /2022

Sub Assistant Registrar(CS)

PJL



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.

WEB COPY

To

1. The District Collector,
Kanyakumari District, Nagercoil.
2. The Superintendent of Police,
Kanyakumari District, Nagercoil.
3. The Regional Transport Officer,
Kanyakumari District,
Nagercoil.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s. ANANTH C RAJESH, Advocate (SR-38188[F]
dated 10/12/2021)

W.P. (MD) No. 16571 of 2014
10.12.2021

TP (CO)
GC (31.12.2021) 3P 6C