



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 09.02.2021

DATE ON WHICH PRONOUNCED : 08.03.2021

WEB COPY

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

W.P. (MD)No.15964 of 2017

and

WMP(MD)No.12617 of 2017

R.Gandhi

... Petitioner

Vs.

1.The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.

2.The Manager,
Sriram Transport Finance Company Limited,
Main Road,
Opposite to Sivagangai Bus Stand,
Sivagangai District.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for issuance of a **Writ of Mandamus**, directing the first respondent to give protection to the life and property of the petitioner's vehicle viz., JCB and Tipper Lorry bearing Registration No.TN-63-J-7799 and TN-63-K-3434 respectively against the threats advanced by the 2nd respondent by considering the petitioner's representation dated 02.08.2017.

For Petitioner : Mr.G.Prabhu Rajadurai
For R1 : Mr.M.Ganesan
Government Advocate(Crl.Side)

O R D E R

This writ petition has been filed seeking a direction to direct the first respondent to give protection to the life and property of the petitioner's vehicle viz., JCB and Tipper Lorry bearing Registration No.TN-63-J-7799 and TN-63-K-3434 respectively against the threats advanced by the 2nd respondent by considering the petitioner's representation dated 02.08.2017.

2. Brief facts of the case:-

(i) The petitioner approached the second respondent for loan to expand his business in the year 2013. On 20.06.2013, the

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petitioner availed two four wheeler vehicle loans from the second respondent and loan agreement was also entered into between the parties. The loan amounts are Rs.7.40 lakhs and Rs.12.00 lakhs, for which, the petitioner mortgaged the Tipper lorry bearing Registration No. TN-63-J-7799 and another JCB vehicle bearing Registration No. TN-63-K-3434.

(ii) Due to some problem created by the enemies of the petitioner, he suffered loss in his business and agriculture activities. Due to the short fall of rain, the petitioner was not in a position, to repay the loan amount to the second respondent. He has paid Rs.6,08,441/- in respect of the Tipper Lorry loan and he has to pay the balance amount of Rs.4,39,900/-. But, the second respondent, threatened the petitioner to pay Rs.8,88,485/- by calculating exorbitant interest. Similarly, in respect of the JCB loan, he has paid Rs.8,55,165/- and the balance amount has to be paid is Rs.7,85,850/-. But, the second respondent demanded the petitioner to pay Rs.17,54,994/-.

(iii) The second respondent is continuously threatening the petitioner to pay the balance amount with exorbitant interest. So, the petitioner submitted a representation on 02.08.2017 to the first respondent for protection. Even though, CSR is issued, there was no action. So, this writ petition is filed seeking a writ of mandamus directing the first respondent to give protection to the life and property of the petitioner's vehicle viz., JCB and Tipper Lorry bearing Registration No.TN-63-J-7799 and TN-63-K-3434 respectively.

3. Heard Mr.G.Prabhu Rajadurai, learned counsel appearing for the petitioner and Mr.M.Ganesan, learned Government Advocate (Crl.Side), appearing for the State.

4. From the facts narrated in the petition, it is seen that it is purely business loan transactions between the petitioner and the second respondent. It was also admitted by the petitioner that balance amount is liable to be paid by him. Over the quantum of the balance amount, the dispute arose between the petitioner and the second respondent. The only allegation, on the side of the petitioner is that the second respondent has demanded exorbitant interest. Even if there was any demand by the second respondent, to pay exorbitant interest, he is not bound to pay the amount over and above the agreed interest. When a written agreement entered between the petitioner and the second respondent, the petitioner has to work out his remedy as per law, if any excess amount is demanded by the second respondent. Making representation to the first respondent to give protection to the vehicles, will not lie and I am of the considered view that this is nothing, but, a misconceived relief sought for by the petitioner in this petition. Moreover, the writ petition was filed in the year of 2017, whether the cause of action still exist or not is not brought on record. So, the petitioner is directed to work out his remedy as per law.



5. With the above said observations, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dss

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 Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

**W.P. (MD)No.15964 of 2017
and
WMP (MD)No.12617 of 2017
08.03.2021**

PK (CO)
TR(23.03.2021) 3P 3C