



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.04.2022

Coram::

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Writ Petition No.17699 of 2020

G.Baskaran @ Baskar,
Son of Gopal,
No.3/302, Kasinathapuram,
Pattabiramapuram Post,
Tiruttani, Thiruvallur District.

... Petitioner

/versus/

1. The Superintendent of Police,
O/o. Thiruvallur,
Thiruvallur District.

2. The Inspector of Police,
D-1, Tiruttani Police Station,
Tiruttani, Thiruvallur District.

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, 1950, to issue Writ of Mandamus directing to take legal and disciplinary action against the 2nd respondent and also to pay Rs.12,00,000/- (Rupees Twelve Lakhs) for the hit, damages, spare parts missing of petitioner Agriculture Tractor under the custody of 2nd respondent custody and also compensation for the hardship and mental agony faced by the petitioner and pass order.

For Petitioner : Mr.B.Tamilarasan

For R1 & R2 : Mr.S.Santhosh,
Government Advocate (Crl.Side).

O R D E R

The petitioner herein is the owner of tractor bearing registration No.TN-20-CS-3847. Alleging that, the said tractor was involved in illegal transport of minerals was seized by the respondent police on 31.07.2020. Later the owner of the Tractor has filed quash petition stating that, the respondent police has no authority to proceed against the petitioner under Mines and Minerals (Development and Regulation) Act, 1957. This Court



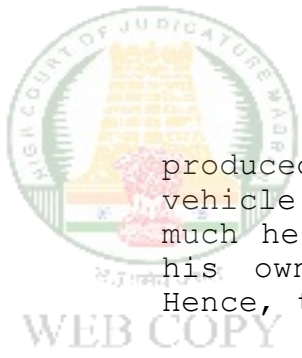
accepted the said submissions and quashed the criminal proceedings. After order passed by this Court on 15.09.2020 in the quash petition in Crl.O.P.No.14351 of 2020, the petitioner has moved the Magistrate Court for return of the vehicle and that was allowed by the Trial Court. It is now alleged by the petitioner that when the police returned back the tractor, he found that the Tractor was badly damaged and mangled. He took videograph of the vehicle and thereafter, got back the vehicle since he was in urgent need of the Tractor for the agricultural purposes. Thereafter, he has come before this Court filing this Writ Petition seeking compensation of Rs.12,00,000/- (Rupees Twelve Lakhs Only) for the damage caused by the respondent police while the vehicle was in their custody.

2. The Learned Government Advocate (Crl.Side) for the respondent/police would submit that the contention of the petitioner is not correct. The vehicle seized from the petitioner was kept in the custody of the respondent police as per the direction of the Learned Judicial Magistrate and when Judicial Magistrate ordered the vehicle to be returned to the petitioner it was returned to petitioner on 07.11.2020, after getting acquittance receipt from the petitioner. The receipt was produced before this Court for perusal.

3. This Court on perusal of the receipt finds that the petitioner herein has received back the tractor and trailer in good condition and mentioned the same in the receipt dated 07.11.2020 which has been witnessed by one Mr.Babu and Mr.B.Tamilarasan.

4. In the light of the fact that, the petitioner after giving letter saying that, he has received the vehicle in good condition, cannot reprobate and say that, the vehicle was not in good condition. The production of photographs of the vehicle is of no avail without recording the protest while taking back the vehicle.

5. This Court able to understand that, the vehicle which has been under sun and rain for nearly two months could have got damaged. Precisely, for the said reason, the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai -vs- State of Gujarat* reported in (2002) 10 SCC 283, the said pending trial temporary custody of the vehicle should be handed over to the owner's of the vehicle, in order to avoid such damages. Unfortunately, in this case, the vehicle which was in the custody of the police, returned back to the owner, after two months, was not in the same conditions as it was on the date of seizer. The alleged damage not mentioned while the vehicle was taken back by the petitioner. In fact, the receipt dated 07.11.2020 given by the owner indicates that, the vehicle was taken back in good condition. The photograph evidence which now sought to be



produced before this Court to impress the Court that, the vehicle was damaged to the tune of Rs.12,00,000/- may not of much help to the petitioner in the light of his letter given in his own hand to the police while taking back the vehicle. Hence, this Writ Petition is dismissed.

Sd/-

Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

bsm

Copy to:-

1. The Superintendent of Police, O/o. Thiruvallur, Thiruvallur District.
2. The Inspector of Police, D-1, Tiruttani Police Station, Tiruttani, Thiruvallur District.
3. The Public Prosecutor, High Court, Madras.

W.P.No.17699 of 2020

SSN(CO)
GMV(02/05/2022)