



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.Nos.22050, 22052 & 22053 of 2021

1.Kouselya	...Petitioner in Crl.O.P.No.22050 of 2021
2.D.Lingeswaran	...Petitioner in Crl.O.P.No.22052 of 2021
3.E.Arumugam	...Petitioner in Crl.O.P.No.22053 of 2021

Versus

The Inspector of Police,
S-10 Pallikaranai Police Station
(Law & Order),
Medavakkam,
Chennai.
Pin Code - 600 100.

...Respondent in all cases.

PRAYER in Crl.O.P.No.22050 of 2021: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to release the Tipper Lorry of Tata Motors Make bearing Registration No.TN 22 BZ 9333 painted with Yellow Colour from the custody of the respondent Police, namely The Inspector of Police, S-10 Pallikaranai Police Station (Law & Order), Medavakkam, Chennai, Pin Code-600 100.

PRAYER in Crl.O.P.No.22052 of 2021: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondent Police so as to release the said Road Roller from his custody namely- The Inspector of Police, S-10 Pallikaranai Police Station (Law & Order), Medavakkam, Chennai, Pin Code - 600 100.

PRAYER in Crl.O.P.No.22053 of 2021: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to release the Tipper Lorry of Tata Motors Make bearing Registration No.TN 22 BJ 9333 painted with Yellow Colour from the custody of the respondent Police, namely The Inspector of Police, S-10 Pallikaranai Police Station (Law & Order), Medavakkam, Chennai, Pin Code - 600 100.

For Petitioners: M/s.N.Jothi, Senior Counsel for
Mr.S.Vinod in all cases

For Respondent : Mr.E.Raj Thilak,
Additional Public Prosecutor in all cases



COMMON ORDER

These Criminal Original Petitions have been filed to direct the respondent Police to release the vehicles viz., two tipper lorries bearing registration Nos.TN 22 BZ 9333 and TN 22 BJ 9333 and one road roller to the petitioners.

2.The learned Senior Counsel appearing for the petitioners submitted that the petitioners as entrepreneurs in lorry business, owned tipper lorries. The petitioners used to hire the lorries for their livelihood. She further submitted that the vehicles of the petitioners are registered with the Road Transport Authority and obtained permit to ply the vehicles. The petitioners used to park the vehicles at the place owned by one Chellapan and his wife, who succeeded the said property subsequent to the death of their son Krishana. During the period from 26.09.2021 to 29.09.2021, the petitioners used to park the above said vehicles in the said area. There was some dispute over the property between the said Chellapan and Sivarajan, Velu and others. On 26.09.2021, a group headed by Sivarajan and Velu, at the instigation of one Shanthi and others, entered into the property and claimed right over the same and also attempted to remove fence, which resulted in lodging of complaint and counter complaint between them. An FIR in Crime No.1037 of 2021, for offence under Section 147, 148, 448, 294(b), 506(ii) IPC r/w 109 IPC was registered on 01.10.2021, at the instance of Chellapan. An FIR in Crime No.1038 of 2021 was registered for offence under Sections 147, 148, 448, 294(b), 427, 506(ii) r/w 109 IPC was registered at the instance of Sivarajan. Since the situation was combative and the property is situated at 200 feet road, Viduthalai Nagar, S.Kolathur, the respondent Police registered an FIR in Crime No.1055 of 2021, under Section 145 Cr.P.C., and referred the matter to the Revenue Divisional Officer, Guindy to avoid breach of peace.

3.The learned Senior Counsel further submitted that the petitioners have got nothing to do with the dispute between Chellapan and Sivarajan. On what authority, the petitioners' vehicles were taken away and detained in the Police Station is not known. Further, the seizure of vehicles were not intimated and produced before the concerned Court. Hence, prayed for appropriate direction of this Court.

4.In support of the submissions, the learned Senior Counsel for the petitioners filed typed set containing copy of FIR in Crime No.1037 of 2021; request of the respondent Police to the Revenue Divisional Officer, Guindy to initiate the proceedings under Section 145 Cr.P.C; Registration Certificate of the vehicles and photographs showing the vehicles are detained in



respondent Police Station.

5.The learned Additional Public Prosecutor appearing for the respondent Police submitted that there was some dispute over the property in survey No.386/IIB, 385/2B of 4230 sq.ft at 200 feet road, Viduthalai Nagar, S.Kolathur. One Chellappan lodged a complaint against Sivarajan, Velu, and others stating that on 26.09.2021, at about 01.00 a.m., at the instigation of Jeyajothi, Sivarajan, Velu and others had entered into the said property and attempted to remove fence. The said Chellapan on getting information along with his son Sunil had come there, where they were threatened and abused. Hence, a case in Crime No.1037 of 2021 was registered. He further submitted that the said Sivarajan had also lodged a complaint against Chellapan, which was registered in Crime No.1038 of 2021. During enquiry in both cases, it was found that one Kothanda Naicker is the owner of the property, after his demise, wife Kuppamal, son Selvaraj, minor sons Rajendran and Palani are the legal heirs. In the year 1980, the said property was sold by Kuppamal, Selvaraj and others to one Meena. In the year 1991, Gokulakrishnan and Sunil kumar sons of Chellapan had purchased the property. The said Sunilkumar and Gokulakrishnan had settled the property in favour of one Krishnan. In the year 2019, due to ill health, the said Krishnan passed away and also the said Selvaraj who had sold the property. One Shanthi, wife of Selvaraj, Sheela his daughter and Palani his brother had executed a power of attorney in favour of one Sudhakar for the same property. Further, Kothanda Naicker's yet another legal heir Rajendran claiming that he has got share in his father's property, had executed the sale deed in favour of one Sivarajan. In the meanwhile, the said Shanthi, Sheela and Palani have filed a suit before the learned District Munsif, Alandur in O.S.No.206 of 2019. In I.A.No.679 of 2019 in O.S.No.206 of 2019, they have obtained an injunction not to disturb the peaceful possession till the disposal of the suit.

6.In such circumstances, the said Sivarajan, Velu and others attempted to enter into the property to put up construction, which was resisted by Chellapan and others. Since the situation was combative, the respondent Police has registered a case in Crime No.1055 of 2021 and referred the matter to the Revenue Divisional Officer, Guindy. While being so, the petitioners' vehicles were parked in the disputed property. The petitioners were advised to clear the vehicles from the property in dispute, but they refused to do so. The respondent Police to avoid law and order problem, seized the vehicles through form 91 and intimated the same to the learned Judicial Magistrate Court No.II, Alandur. At this juncture, the petitioners to approach the learned Magistrate for return of their vehicles, not before this Court.



7.This Court considered the rival submissions and perused the materials available on record.

8.The vehicles viz., two tipper lorries bearing registration Nos.TN 22 BZ 9333 and TN 22 BJ 9333 and one road roller of the petitioners were parked in the property situated at 200 feet road, Viduthalai Nagar, S.Kolathur. Since the property is in dispute and there was claim and counter claim over the same, the respondent Police informed the petitioners not to park the vehicles, but the petitioners failed to do so. Hence, in order to avoid law and order problem and to avoid breach of peace, the respondent Police seized the vehicles through form 91 and intimated the same to the learned Judicial Magistrate No.II, Alandur on 01.10.2021.

9.On perusal of the form 91, it is seen that the vehicles have been seized in Crime No.1038 of 2021. Hence, this Court directs the petitioners to approach the learned Judicial Magistrate No.II, Alandur and file appropriate petition for releasing their vehicles.

10.With the above directions, these Criminal Original Petitions are disposed of.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
S-10 Pallikaranai Police Station,
(Law & Order),Medavakkam,
Chennai.

2. The Public Prosecutor,
High Court, Madras.

Copy To:

The Judicial Magistrate Court No.II,
Alandur.

CRL.O.P.Nos.22050, 22052 & 22053 of 2021

AD(CO)
RGA(14/02/2022)