



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.1790 of 2022

R.Jawahar

... Petitioner

Vs.

1.The Inspector of Police,
SIPCOT Police Station,
Tuticorin.

2.The Assistant Director of Mines,
District Collectorate,
Tuticorin District,
Tuticorin.

... Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the respondents to return the lorry bearing registration No. TN 69 BJ 4885 and the keys of the Hitachi Hydraulic Excavator in Machine S.No.S200 - 25378 to the petitioner.

For Petitioner : Mr.G.Prabhu Rajadurai
For Respondents : Mr.M.Sakthi Kumar,
Govt. Advocate (Crl. Side).

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondents.

2.The petitioner had purchased copper slag from M/s.Sterlite Industries Limited for land filling. The petitioner was transporting the same to another industry, who had purchased copper slag from the petitioner. During the course of transport, the vehicle was intercepted and it is being retained by the respondents. The vehicle along with load are in the premises of the first respondent police station. The first respondent had also taken the hitachi hydraulic excavator. For the last fifteen days, the vehicles are with the first respondent. Seeking return of the petition mentioned vehicles and keys, this criminal original petition came to be filed.



3.The petitioner alleges that without any authority of law, the respondents are retaining the petitioner's vehicles and the goods.

4.Notice was ordered. When the matter was taken up for hearing, the learned Government Advocate (Crl. Side) produced the copy of the FIR in Crime No.23 of 2022 registered on the file of the first respondent. According to the learned Government Advocate (Crl. Side), the impugned action was taken pursuant to the registration of the FIR. I went through the contents of the FIR. The FIR has been registered only for the offence under Section 379 r/w. 511 of IPC. It is not the case of the respondents that the goods in question belonged to the Government. Since there is no formal challenge to the impugned FIR, I refrain from considering the correctness of the same. It is for the petitioner to file an independent criminal original petition to question the FIR in Crime No.23 of 2022.

5.Now the question now arises for consideration is whether the respondents are justified in retaining the petition mentioned vehicles along with goods and keys. According to the learned Government Advocate (Crl. Side), the Hon'ble Division Bench of this Court passed an interim stay restraining transport of such material. The learned counsel for the petitioner asserts that there is no such interim order. No interim order has been produced before me. It appears that somebody had dumped the copper slag in a running stream and that led to filing of a public interest litigation. Since the respondents have not produced any interim order passed by the Hon'ble Division of this Court, I have to proceed on the premise that there is no restraint against transport of copper slag. In fact as early as on 01.09.2020 in W.P.(MD)No.8135 of 2020, I had specifically held that there can be no objection for removing and transporting of copper slag. Since on the face of it, I find that the FIR is not sustainable and since the the respondents are absolutely unjustified in retaining the petition mentioned vehicles and goods, I direct the respondents to forthwith release the petition mentioned vehicles along with the goods and keys.

6.This criminal original petition is allowed accordingly.

Sd/-

Assistant Registrar(CS-II)

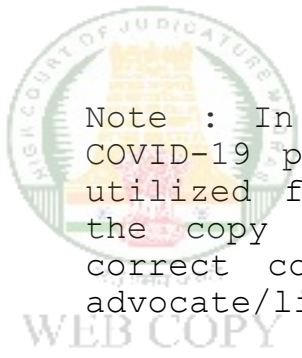
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/ /2022

Sub Assistant Registrar(CS)

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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,
SIPCOT Police Station,
Tuticorin.
- 2.The Assistant Director of Mines,
District Collectorate,
Tuticorin District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P (MD)No.1790 of 2022
04.02.2022

TP (CO)
TR (07.02.2022) 3P 4C