



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2022

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THE HONOURABLE MR. JUSTICE C. SARAVANAN

W.P(MD).No.1734 of 2020

M.Dhanapal

... Petitioner

Vs.

1.Regional Transport Office,
Central Regional Transport Office,
Coimbatore,
Coimbatore District.

2.The Assistant Registering Authority,
Regional Transport Office,
Madurai District.

3.The Inspector of Police,
D3, Koodalpudur Police Station,
Madurai City.

4.P.Rajalakshmi

...Respondents

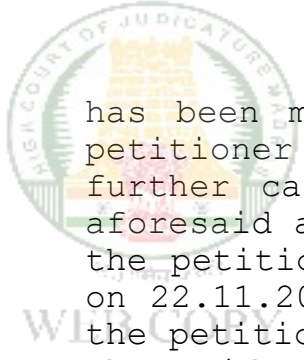
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to cancel the registration of the petitioner's vehicle Mahindra Xylo D2 (Maxi Cab) bearing registration No.TN-45-BB-4354 and consequently, direct the third respondent police to recover the original RC book from the fourth respondent as per the FIR in Crime No.802 of 2019 on the file of the third respondent police.

For Petitioner : Mr.J.Jeyakumaran
For R1 to R3 : Mr.V.Nirmal Kumar
Government Advocate

ORDER

The petitioner has filed this writ petition for a Mandamus directing the respondents 1 and 2 to cancel the registration of Mahindra Xylo D2 (Maxi Cab) bearing Registration No.TN-45-BB-4354.

2. The case of the petitioner is that the petitioner had originally pledged the RC book of the said vehicle with one Rajeshkumar of Vilangudi for a sum of Rs.10,000/-. Though allegation



has been made in this writ petition against the said person, the petitioner has failed to implead him in this writ petition. The further case of the petitioner is that the petitioner repaid the aforesaid amount to him. However, the said Rajeshkumar insisted that the petitioner should pay another sum of Rs.15,000/- which was paid on 22.11.2018. It is the further case of the petitioner that though the petitioner discharged the loan by paying the aforesaid amount to the said Rajeshkumar with whom the petitioner had pledged the RC book for the vehicle bearing Registration No.TN-45-BB-4354 for Mahindra Xylo D2 (Maxi Cab), the said Rajeshkumar refused to return the RC book. It is the further case of the petitioner that the petitioner thereafter filed a complaint before the Sellur Police Station. According to the petitioner, the said Rajeshkumar admitted that he had in turn pledged the RC book, his house property to the third party and hence could not return the RC book to the petitioner and therefore agreed to purchase the petitioner's aforesaid vehicle namely Mahindra Xylo D2 (Maxi Cab) bearing Registration No.TN-45-BB-4354. It appears that the petitioner has also received a sum of Rs.50,000/- as advance and that according to the petitioner, the said Rajeshkumar had agreed to pay a balance sum of Rs.3,50,000/- on or before 22.07.2019 and thus petitioner handed over the physical possession of the vehicle to said Rajeshkumar. Now, the petitioner has moved to this Court for cancelling the registration on the ground that the vehicle has been registered by forging the signature of the petitioner and vehicle has been transferred to one P.Rajalakshmi.

3. The learned Counsel for the petitioner submits that the petitioner has also filed a complaint, vide Crime No.802 of 2019, before the third respondent herein, namely, the Inspector of Police, D3, Koodalpudur Police Station, Madurai City. The learned counsel for the petitioner further submits that since registration is under Section 50 (3) of the Central Motor Vehicle Rule, 1989, transfer effected in the name of the fourth respondent is liable to be cancelled.

4. Opposing the prayer, the learned counsel for the first respondent submits that the writ petition is devoid of merits as the petitioner has admittedly handed over the possession of the vehicle to the said Rajeshkumar with whom there was commercial dispute. It is therefore submitted that the writ petition filed by the petitioner is liable to be dismissed. The learned counsel for the first respondent further submitted that the transfer of ownership of vehicle was duly considered by the first respondent before effecting the transfer of ownership from the petitioner's name to Rajalakshmi, the fourth respondent herein. It is submitted that as per Section 50 (1) (a) of Motor Vehicles Act, 1988 r/w Sub Rule 1, Sub Rule 2 of Rule 55 of the Central Motor Vehicle Rules, 1989, there is no requirement to summon both the parties for considering the application for transfer of ownership. It is submitted that the petitioner to cancel the endorsement made for



regarding the transfer of ownership cannot be entertained, since the vehicle is covered by a hire purchase agreement.

5. It is noted that pursuant to directions of this Court, the third respondent namely, the Inspector of Police, has also filed a report, which seems to indicate that the said Rajeshkumar to whom the petitioner had originally pledged the RC book and thereafter sold the vehicle had confessed to Crime and the cars in his possession was seized and subsequently that the said Rajeshkumar was remanded to judicial custody along with seized car in R.R.P.No.337 of 2019. The third respondent has stated that the respondents have to now recover the original RC book of the car bearing Registration No.45-EB-4354 Mahindra Xylo Car and the steps were being taken to cancel the registration.

6. There is some contradiction in the report of the third respondent and the counter filed on behalf of the first respondent. On the one hand the first respondent has stated that the vehicle is a subject matter registered hire purchase agreement with M/s.Shriram Transport Finance Company Limited. On the other hand, the status report of the third respondent seems to indicate that the vehicle has been seized from one Kumerasan residing at Kamarajapuram and handed over the car and that the seized car is in the custody of the respondents. The vehicle registered is the name of a third party. Be that as it may, the facts regarding that the petitioner had a commercial dealing with the said Rajeshkumar is not in dispute. Admittedly, the said Rajeshkumar had agreed to purchase the car from the petitioner for a sum of Rs.4,00,000/- even as per the aforesaid affidavit. The petitioner has also received a sum of Rs.50,000/-. The RC book was earlier pledged by the petitioner.

7. Considering the above, I am inclined to dismiss the writ petition by directing the petitioner to work out the remedy in a civil Court against the said Rajeshkumar for recovery of money. The Writ Petition therefore stands dismissed with the above directions. No costs.

Sd/-

Assistant Registrar(Writs)

// True Copy //

/ /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

<https://hccourtscs.gov.in/csguest> advised to be concerned.



To

1. Regional Transport Office,
Central Regional Transport Office,
Coimbatore,
Coimbatore District.

2. The Assistant Registering Authority,
Regional Transport Office,
Madurai District.

3. The Inspector of Police,
D3, Koodalpudur Police Station,
Madurai City.

+1 CC to M/s.SPL GP (SR-6005[F] dated 14/02/2022)

W.P (MD) .No.1734 of 2020
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kmv (CO)
TR(01.03.2022) 4P 5C