



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.03.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P. (MD) No.7167 of 2021

and

W.M.P. (MD) Nos.5470 and 5471 of 2021

Johnpeter

... Petitioner

/vs./

1.Tamil Regional Transport Officer,
Regional Transport Office,
Palani,
Dindigul District.

2.The Motor Inspector Grade-I,
Regional Transport Office,
Palani,
Dindigul District.

3.The Inspector of Police,
Oddanchathram Police Station,
Oddanchathram,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned vehicle inspection record in Triplicate No.1893561 date 05.11.2019 issued by 2nd respondent herein and quash the same as illegal and consequently directing the 3rd respondent to release the vehicle No.TN-57-AQ-4764 (Bajaj CT 100) permanently to the petitioner and also direct 1 and 2 respondents to pay compensation for the damages caused to vehicle due to dereliction in duty in wrongly awarding compounding fees by 1 and 2 respondents herein.

For Petitioner : Mr.S.Sarvagan Prabhu

For Respondents : Mr.M.Prakash

Additional Government Pleader

ORDER

The petitioner has filed this writ petition for a Certiorarified Mandamus to call for the records relating to the impugned vehicle inspection report in Triplicate No.1893561 dated 05.11.2019 issued by the 2nd respondent and to quash the same as illegal and to direct the 3rd respondent to release the petitioner's Motor Cycle bearing Reg.No.TN 57 AQ 4764 (Bajaj CT 100) and to direct the respondents 1 and 2 to pay compensation for the damages caused to the vehicle due to the dereliction of duty in wrongly awarding the compounding fee by the respondents 1 and 2 herein.



2.The case of the petitioner is that the vehicle met with an accident within the 3rd respondent police limit and caused injury to a woman and based on the complaint prepared by the son of the injured, a case was registered by the 3rd respondent police in Crime No.500 of 2019 for the offences punishable under Sections 279 and 337 of IPC against the petitioner. It is submitted that the petitioner's Motor Cycle was thereafter taken for vehicle inspection and it was found that the vehicle was not having a valid pollution control certificate.

3.The learned counsel for the petitioner submits that the respondents have refused to release the vehicle by insisting that the petitioner should pay compounding fee for a sum of Rs.10,000/- in terms of the impugned order. It is however submitted that the compounding fee that is to be paid was only Rs.1,000/- and was Rs.2,000/- for the subsequent offence under the aforesaid Act.

4.Opposing the prayer, the learned Additional Government Pleader for the respondents submits that in terms of Section 190 (2) of the Motor Vehicles (Amendment) Act, 2019 (*herein after referred to as Act*), the petitioner is required to pay compounding fee of Rs.10,000/- and since the petitioner has not come forward to pay the aforesaid amount, there is no merits in this writ petition.

5.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

6.The petitioner is the owner of a two wheeler bearing Reg.No.TN 57 AQ 4764 (Bajaj CT 100). The vehicle was allegedly involved in an accident on 23.10.2019, pursuant to which an FIR came to be lodged in Crime No.500 of 2019 by the 3rd respondent police. Pursuant to the registration of the FIR, the petitioner's two wheeler was taken for motor inspection, wherein it was found that the petitioner did not possess the requisite pollution control certificate and thus, the petitioner was plying/using the vehicle contrary to the provisions of the Act warranting punishment under Section 190 (2) of the Act.

7.Section 190 of the Motor Vehicles Act, 1988 was amended by the Motor Vehicle (Amendment) Act, 2019 on 09.08.2019 with effect from 01.09.2019 vide SO 3110(E) dated 28.08.2019. The accident took place just a month after the amendment to Section 190 (2) of the Act. Prior to the aforesaid day, the maximum penalty that was to be imposed was Rs.1,000/- only. However, that amount was increased to Rs.10,000/-. Section 190 (2) of the Act reads as under:-

"Any person who drives or causes or allow to be driven,

in any public place a motor vehicle, which violates the



standards prescribed in relation to road safety, control of noise and air-pollution, shall be punishable for the first offence with imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees or with both and he shall be disqualified for holding licence for a period of three months and for any second or subsequent offence with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both."

8.A reading of the above indicates that Rs.10,000/- is a maximum fine that can be imposed with punishment for a period of 3 months, which may extend for a period of 6 months or with fine, which may extend to Rs.10,000/- or with both. Thus, these are only the maximum punishment that can be imposed. It does not indicate that the maximum amount of fine has to be imposed. The respondents are required to exercise their power judicially by considering the gravity of the offences committed by the petitioner. This is the case, where the petitioner was involved in an accident, while riding a two wheeler.

9.The person, who suffered injury, would have either filed a suit to recover the amount from the petitioner or would have approached the Motor Vehicle Accident Tribunal for compensation under the provisions of the said Act. The failure on the part of the petitioner to obtain a pollution control certificate need not warrant a maximum penalty of Rs.10,000/-.

10.Considering the fact that the vehicle involved is only a two wheeler and it is not a premium motor cycle also, I direct the respondents to release the vehicle of the petitioner subject to the petitioner paying a sum of Rs.2,000/- as fine within a period of 15 days from the date of receipt of a copy of this order. If such amount is paid by the petitioner within such time, the respondents shall release the petitioner's vehicle to the petitioner. The prayer of the petitioner for the damages allegedly inflicted cannot be countenanced and therefore, to that extent the relief cannot be granted.

11.The writ petition stands allowed, in terms of the above observations and directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

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/ /2022

Sub Assistant Registrar (CS)



To

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3.The Inspector of Police,
Oddanchathram Police Station,
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+1 CC to M/s.SPL GP (SR-11543[F] dated 11/03/2022)

+1 CC to M/s.S.SARVAGAN PRABHU, Advocate (SR-11034[F] dated
10/03/2022)

**W.P. (MD) No. 7167 of 2021
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RK(22/03/2022) 4P 6C