



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24.01.2022

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

W.P. (MD)No.20372 of 2019

WEB COPY

Satheeshkumar, S/o.Chandiraraj

... Petitioner

Vs.

1.The Superintendent of Police,
Theni District, Theni.

2.The Inspector of Police,
Palanichettipatti Police Station,
Theni District.

3.Yazhisaiselvan,
Sub-Inspector of Police,
Palanichettipatti Police Station,
Theni District.

4.Dharmar,
Special Sub-Inspector of Police,
Palanichettipatti Police Station,
Theni District.

5.Thankapandi,
Head Constable No.979,
Palanichettipatti Police Station,
Theni District.

6.Thangapandian @ Ponthagapandian

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, directing the first respondent to conduct the enquiry upon the petitioner's complaint dated 06.09.2019 and on that basis to take necessary action against the respondents 3 to 5 and hand over the car bearing Registration No.TN-12-J-7242 to the petitioner forthwith.

For Petitioner : Mr.V.Thirumal

For R1 to R5 : Mr.A.Thiruvadikumar
Additional Public Prosecutor

For R6 : Mr.R.Maheswaran

**ORDER**

This Writ Petition is filed seeking Mandamus to direct the first respondent to conduct enquiry upon the complaint dated 06.09.2019, given by the petitioner herein. The said complaint of the petitioner states that during the month of January 2018, he purchased a second-hand car, bearing Registration No.TN-12-J-7242 from the sixth respondent through broker for a sale consideration of Rs.5,50,000/-, for which, he paid initial amount of Rs.3,50,000/- and took possession of the car with the specific understanding that he will pay the balance sale consideration of Rs.2,00,000/- after handing over the R.C. Book and name transfer clearance. However, the sixth respondent did not hand over the R.C. Book and delayed the same. Therefore, on 04.08.2019, he gave a complaint to the respondent Police to take action against the sixth respondent for not arranging the transfer of the vehicle in his name after receiving the balance of Rs.2,00,000/-. The said complaint was enquired and the sixth respondent agreed to pay Rs.2,50,000/- and get back the car. Accordingly, the car was handed over to the sixth respondent and the sixth respondent gave a cheque for Rs.2,50,000/-, dated 01.09.2019. It was agreed by the sixth respondent that the cheque is given as security and he will pay the cash and get back the cheque. However, he did not pay the cash Rs.2,50,000/- in spite of handing over the car to him. Alleging that the sixth respondent's *modus operandi* is to cheat the public in the manner stated above and there are several complaints against him and in spite of the complaint dated 06.09.2019, the Police has not acted upon his complaint, the present Writ Petition is filed.

2.The sixth respondent, who has entered appearance through counsel, has filed counter affidavit stating that he is a trader of used cars and the subject car Tavera bearing Registration No.TN-12-J-7242 was sold to one Muthuraj for a sale consideration of Rs.5,50,000/-. As per the agreement dated 09.05.2019, entered into between the Muthuraj and the sixth respondent, a sum of Rs.2,50,000/- was paid to the sixth respondent and the possession of the vehicle was handed over to Muthuraj. The copy of the R.C. Book, Permit and Insurance were handed over to Muthuraj along with the vehicle. The said Muthuraj did not turn up to pay the balance amount. When he was called by the second respondent Police based on the complaint given by the petitioner, dated 04.08.2019, he came to know that the vehicle is in the possession of the petitioner and the said Muthuraj, whom he sold the car, is the uncle of the petitioner and the Muthuraj passed away after handing over the vehicle to the petitioner. In the said circumstances, he agreed to pay Rs.2,50,000/- and got back the car. When the car was handed over to him, he found that it is completely damaged and most of the spare parts were replaced and therefore, the vehicle was not roadworthy and the vehicle is still parked in the yard near the second respondent's Police Station. The petitioner herein with whom the sixth respondent has no privity of contract is trying to threaten the sixth respondent and the Police by this Writ Petition.



3.From the averments made by the petitioner and the sixth respondent, it appears that there was some transaction between the petitioner and the sixth respondent regarding the car bearing Registration No.TN-12-J-7242. Earlier, a complaint dated 04.08.2019, registered in C.S.R.No.358 of 2019, ended in exchange of the car for the cheque amount of Rs.2,50,000/-. Thereafter, on refusal of paying Rs.2,50,000/-, a representation/complaint dated 06.09.2019 was lodged by the petitioner herein to take action against the sixth respondent. Since the Police has not taken any action, the present Writ Petition is filed.

4.The transaction appears to be purely civil in nature. The petitioner is holding a cheque, dated 01.09.2019, issued by the sixth respondent for Rs.2,50,000/-/. He could have very well presented the cheque within the period of validity, but, he has not exercised that option. He has given representation to the Police and has filed the Writ Petition without exhausting the remedy available to him. This Court could not give criminal colour to a civil transaction. Still, the limitation is not expired for the petitioner herein to file a suit for recovery of money based on the cheque dated 01.09.2019. Thus, it is open to the petitioner to approach the competent Civil Court to seek remedy for recovery of money.

5.With the above observation, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Superintendent of Police,
Theni District, Theni.

2.The Inspector of Police,
Palanichettipatti Police Station,
Theni District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V.THIRUMAL, Advocate (SR-2307[F] dated 25/01/2022)

W.P. (MD)No.20372 of 2019

24.01.2022

MGJ(01.02.2022) 3P 5C