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W.P.No.780 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.780 of 2023

&

W.M.P.No.727 of 2023

S.Anandakumar

... Petitioner

Vs.

1.The Regional Transport Officer
and Licensing Authority
Villupuram

2.The Inspector of Police
Villupuram West Police Station
Villupuram

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of mandamus directing the respondents to forthwith return petitioner's original driving license bearing DL No.TN20Y20080002498 to the petitioner within a time limit that may be fixed by this Court.

For Petitioner : Mr.K.Hariharan

For Respondents : Mrs.R.Anitha, Spl.G.P



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ORDER

This writ petition has been filed to direct the respondents to forthwith return petitioner's original driving license bearing DL No.TN20Y20080002498 to the petitioner.

2. The case of the Writ Petitioner is that he is the driver of the State Express Transport Corporation. While driving the vehicle on 06.12.2022, the vehicle met with an accident while proceeding to Villupuram bus stand and the FIR has been filed and the driving license has been collected by the respondent Poilice. The FIR has been filed for offences U/s. 279 and 304 A IPC. Therefore, he seeks a direction for release of the license.

3. Heard the learned counsel on either side.

4. This Court in W.P.No.11 of 2023, in a similar situation has dealt elaborately the manner in which the powers could be exercised U/s. 19 of the Motor Vehicles (Amendment) Act, 2019(in short 'Act') and powers of the Police officer U/s.206 (4) of the Act. Though this Court has held that power U/s. 19(!) of the Act could be initiated irrespective of the criminal



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cases conclusion, such power has to be exercised only after giving an proper opportunity to the petitioner and is also held that seizure of the license is not required for taking action U/s. 19. The action U/s. 19 could be initiated on the basis of the report submitted by the Police officer. Similarly, the power of the Police officer to seize the license pursuant to the in cession of the Sec.206(4) of the Act is elaborately dealt.

5. This Court has held that Police have power to seize the license only in the three contingencies mentioned in Sec. 206 of the Act. In such view of the matter, even to seize the license U/s. 206 proper reasons has to be recorded. In such view of the matter, without any reasons being recorded the license cannot be seized. In the given case, the license has been seized merely based on the FIR u/s. 297 and 304(A).

6. This Court in W.P.No.11 of 2023 has held as follows:

14. Therefore, before any action taken under Section 19 of the Act, an opportunity has to be given by the Licensing Authority. Therefore, the seizure power of the police introduced under Section 206 of the Act is only in certain circumstances. Only if the police officer has reason



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to believe that offence has committed in any of the sections 183, 184, 185, 189, 190, 194C, 194D, or 194E under sub-clause (4) of Section 206 of the M.V. Act, he can seize the licence and forward to the Licensing Authority. The combined reading of Clauses 1, 2, 3, and 4 of Section 206 of M.V.Act makes it clear that only three contingencies, the police officer can seize the licence. Particularly, when the identification mark or licence or the documents relating to the vehicle are false those documents can be seized under sub-clause (1).

15. The second contingency on which police officer can seize the licence is if any person charged under the M.V. Act, try to abscond or avoid service of summons, licence may be seized and temporary acknowledgment can be given. Another circumstances under Sub-clause 4 of section 206 of the Act is when the police officer has reason to believe that the driver of a motor vehicle has committed an offence under any of sections 183, 184, 185, 189, 190, 194C, 194D, or 194E, of the M.V.Act, the licence can be seized by the police officer. The power vested under Section 206 for seizure of the licence is not automatic. Only when the police officer records the reasons to believe that any of the circumstances as narrated in Section 206 is attracted he can exercise such a power. The word “reason to believe” is defined under Section



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26 of the Indian Penal Code which reads as follows:

“Section 26 of The Indian Penal Code

26. “Reason to believe”.—A person is said to have “reason to believe” a thing, if he has sufficient cause to believe that thing but not otherwise.

16. The word “reason to believe” excludes the mere suspicion or doubt. The word believe is very much stronger word than suspect and involves the necessity of showing the circumstances that a reasonable man must have felt convinced his mind, that circumstances exists to proceed under section 206 of the M.V. Act. “Reason to believe” means belief which a reasonable man will entertain on the facts before him and it contemplates an objective based on the independent care and deliberation and the same must be based on the good faith. In substance, the reason to believe means that a person must have a reason to believe if the circumstances are search that reasonable man would, by probable reasoning conclude or infer regarding the nature of the thing concerned. Such circumstances need not necessarily be capable of absolute conviction or inference but it sufficient such circumstances are creating a cause to believe by chain of probable reasoning leading to the conclusion or inference about the nature of the thing.

With the above directions, this Writ Petition is allowed. No costs.



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Consequently, connected Writ Miscellaneous Petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral citation: Yes/No

To

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N. SATHISH KUMAR, J.



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