



WEB COPY

W.P.No.9849 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9849 of 2023

V.Hariharan

... Petitioner

Vs.

1.The Transport Commissioner,
Home (Transport) Department,
Government of Tamil Nadu,
Ezhilagam II Floor, Chepauk,
Chennai – 600 005.

2.The Regional Transport Officer,
The Regional Transport Office,
Sankari,
Salem District.

3.The Motor Vehicles Inspector Gr.I,
The Regional Transport Office,
Sankari,
Salem District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 2nd 3rd respondents to release the car “Maruti Swift ZDI” in bearing registration No. TN 10 AQ 9989 and Engine No.D13A2628840 and chassis No. MA3FHEBIS00984561 to me, which was seized on 30.09.2022 and keeping under the custody of the 2nd respondent office.



For Petitioner : Mr.A.Saravanan

For Respondents : Mr.C.Selvaraj
Additional Government Pleader

ORDER

The writ of mandamus has been instituted to release the car “Maruti Swift ZDI” in bearing registration No. TN 10 AQ 9989 and Engine No.D13A2628840 and chassis No. MA3FHEBIS00984561, which was seized on 30.09.2022.

2. The petitioner states that he is the *bonafide* purchaser of the car, which was bought by way of second sale. The car was originally purchased by one Mr.Harish, who is the first owner of the said car and he registered the car on 05.02.2016 in the South West Regional Transport Officer. The petitioner verified the registration certificate and thereafter, purchased the car with valid consideration. The Regional Transport Office, during inspection, found that the registration number was bogus and manipulated one. Thus, a criminal case was registered by the competent authorities and the vehicle was confiscated.



3. The learned counsel for the petitioner states that he is the *bonafide* purchaser and he purchased from Mr.Harish by way of second sale and he was not aware of the manipulation or fraud, if any committed by the original owner of the car.

4. High Court cannot conduct a roving enquiry in these issues in a writ proceeding under Article 226 of the Constitution of India. Once a criminal case has been registered, it for the competent authorities to conduct investigation and accordingly, prosecute the persons, who all are responsible and liable. Contrarily, merely based on the affidavit, High Court cannot hold that the petitioner is an innocent person or otherwise. The petitioner has to establish the same before the competent Authorities and before the Court of law in respect of the criminal case registered.

5. The present writ petition has been filed seeking the relief to release the car. Once a criminal case has been registered and the car has been confiscated by the authorities the aggrieved person has to approach the competent court of law under the code of criminal procedure for release of



property. Contrarily, High Court cannot release the car, since the criminal case is under investigation.

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6. On the one hand, the competent authorities are investigating the issues by confiscating the car bearing bogus registration number and on the other hand, if the High Court releases the Car in a writ proceeding, it will tamper the further investigation and any party may take undue advantage of such circumstances. Therefore, the parties are bound to approach the Competent Criminal Court of law under the Code of Criminal Procedure for release of property at appropriate point of time.

7. Thus, this Court is of an opinion that the writ petition itself is not entertainable, since the petitioner has to redress his remedy in the manner contemplated under the Code of Criminal Procedure and by filing appropriate petition.



8. Accordingly, this Writ Petition stands dismissed. No costs.

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Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

- 1.The Transport Commissioner,
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S.M.SUBRAMANIAM, J.

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