



W.P(MD)No.2266 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2266 of 2023

Veerappan

... Petitioner

Vs

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Thiruppathur Taluk,
Sivagangai District.

3.The Food Safety Officer,
Thiruppathur Block,
Sivagangai District.

4.The Inspector of Police,
Kundrakkudi Police Station,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to release the Petitioner's Maruthi Omni Van bearing Registration No. TN-55-BD-1848 pertaining to the case in Crime no. 160 of 2022 on the file of the fourth respondent herein and return the Van to him based on the petitioner's representation dated 20.01.2023.



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For Petitioner : Mrs.N.Gayathri

For Respondents : Mr.A.K.Manikkam
Special Government Pleader
for R.1 to R.3

Mr.B.Thanga Aravindh
Government Advocate (Criminal Side)
for R.4

ORDER

Heard the learned counsel on either side.

2.The petitioner claims to be the owner of the petition mentioned vehicle. He handed over the same to one Abdul Samadhu. The said Abdul Samadhu had said to have transported contraband (Tobacco) in the said vehicle when it was seized by the authorities. In this regard, Crime No.160 of 2022 was registered on the file of Kundrakudi Police Station, Sivagangai District on 13.12.2022. Seeking release of the vehicle, the writ petition has been filed.

3.If the vehicle had been produced before the jurisdictional Court and RPR Number has been assigned, then the petitioner will have to apply to the jurisdictional Magistrate Court under Section 451 of Cr.P.C. But where RPR Number has not been assigned, the affected party can certainly invoke the writ jurisdiction of the Court. I wanted to know whether RPR number has been assigned.



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4.The learned Government Advocate (Criminal Side) on instructions from the fourth respondent stated that RPR Number is yet to be assigned. Thiru.Muthu Krishnan, Sub Inspector of Police present in person before this Court. He categorically stated that the petition mentioned vehicle was produced before the jurisdictional Magistrate on 31.12.2022. The endorsement reads as follows: “To be produced along with property. Hence returned”. When a criminal case has been registered and vehicle is also produced before the jurisdictional criminal Court, while the custody of the vehicle may physically be in the Police Station premises the jurisdictional Magistrate is obliged to immediately assign the RPR Number. Only if the RPR Number is assigned, the vehicle owner can apply for interim custody. Morethan 33 days have elapsed, till now RPR Number has not been assigned. This is not a satisfactory state of affairs. That is why the petitioner is constrained to move this Court for relief.

5.The Hon'ble Supreme Court in the decision reported in (2002) 10 SCC 283 (Sunderbhai Ambalal Desai and Others V. State of Gujarat) has held as follows:-

“17.In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate



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orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.”

6.The fourth respondent is directed to hand over interim custody to the petitioner's vehicle. The petitioner shall produce the same as and when required. The petitioner must see to it that it is not involved in any other criminal case. The petitioner shall produce the original RC Book before the fourth respondent. The fourth respondent does not deny the ownership of the petitioner. The fourth respondent shall hand over the interim custody of the petitioner's vehicle without any delay. This writ petition is allowed on these terms. There shall be no order as to costs.

03.02.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

Note: Issue Order Copy on 07.02.2023.



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To

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G.R.SWAMINATHAN, J.

MGA

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