



W.P. (MD).No.19787 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.11.2023

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD).No.19787 of 2021

Alakal Abdul Lathif

... Petitioner

Vs

1. The District Revenue Officer,
Collectorate Complex, Nagercoil,
Kanyakumari District.
2. The District Supply and Consumer Protection Officer,
Collectorate Complex, Nagercoil,
Kanyakumari District.
3. The Inspector of Police,
Civil Supplies CID, Kuzhithurai Unit,
Nagercoil, Kanyakumari District,
in Crime No.138 of 2021.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 2nd respondent to release the Goods namely 8000 Liters of PMIX Lubrication Oil and to hand over the same to petitioner within the time stipulated by this Court.



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For Petitioner : Mr. R.Aravind Raj

For Respondents : Ms.S.Jeyapriya
Government Advocate

ORDER

This writ petition has been filed for the issue of a writ of mandamus, directing the third respondent to release 8000 Liters of PMIX lubrication oil and to handover the same to the petitioner.

2.The case of the petitioner is that they are involved in logistic business and they transported oil to the customers. The petitioner had entered into an agreement with a Coimbatore based Company and purchased 8000 Liters of PMIX Oil from Pranar Oils and Chemicals India Pvt. Limited, Coimbatore. When the oil, which was loaded in lorry, was on its way to the destination, the vehicle was intercepted by the third respondent and the vehicle was seized along with the oil. The petitioner made a representation to the respondents in this regard requesting for release of the oil. Since the same did not evoke any response, the present writ petition was filed before this Court.



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3.The third respondent has filed a counter affidavit. The

relevant portions in the counter affidavit are extracted hereunder:

“3. It is respectfully submitted that based on the secret information, on 22.09.2021 at about 16.00 Hrs the Deputy Superintendent of Police, CS-CID Division, Madurai along with this 3rd Respondent and subordinates went near Fishing Net Unit at Thengaipatinam Fisheries Port and found a Red Colour Tata Tanker Lorry bearing Regn. No. TN 66 S 5999 in which SVT SAMYUTHA was painted. Nearby the said tanker lorry, its driver one Sugunan, S/o Velayutham, another Ashokkumar S/o Vickraman Nair and another Xavier, S/o Salin were present. When the above said persons were involved in conversation with the mechanized boat owners that they would provide diesel at a cheaper rate than the bunk, the police party surrounded them and conducted enquiry with them. On enquiry, it was found that the said tanker lorry was loaded with 8000 litres of adulterated oil used for factories. Further they admitted that they have purchased the above said adulterated oil measuring 8000 Litres from one Pranar Oils & Chemicals India Pvt. Ltd., located at Madhukadai Road, Seerapalayam, Combatore through Sidco Industrial Estate Green Zoid Aromatics Company located at Alandhur, Kanchipuram District at a cheaper price. Thereafter, it was found that the said oil were brought to Thengaipattinam Fisheries Port in order to sell at a cheaper price than that of the price at petrol bunk through the Regional Channel Head of Sidco Industrial Estate Green Zoid Aromatics Mr Ashok Kumar and Xavier, proprietor of Thuthur Gilda Trading & Co., thereby they could obtain a larger profit margin. It was also found that the above



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said persons did not possess necessary bill nor valid license or permit to sell the same. Subsequently the accused were arrested after following due procedure of law and their confession statements were recorded. Based on the same, the FIR in Crime No. 138 of 2021 for the offence u/s 2(e)(VI), (VII) of Motor Sprit and High Speed Diesel (Regulation of Supply and Distribution of Malpractices) Order, 1998 r/w 7(1) a(ii) of EC Act, 1955 was registered by this Respondent.

4. It is submitted that this 3rd Respondent police had taken samples in three glass bottles each measuring 1 Litre for chemical analysis to be sent to the Forensic Department, Mylapore, Chennai through Judicial Magistrate No. III, Nagercoil. Thereafter, since the contents of the tanker lorry were inflammable in nature, in order to keep them in safe custody, the same is kept with one T.Selvin Oil & Chemical Industries, Ambilikkai village, Oddanchatram Taluk, Dindigul District until the same could be sent to any safe godown as per the order of the 1st respondent”.

4.The learned Government Advocate appearing on behalf of the third respondent submitted that the oil was sent for analysis to the Forensic Science Department and a report has already been received. Based on the same, a draft final report was also prepared by the third respondent and the same is going to be finalised and filed before the Judicial Magistrate No.III, Nagercoil shortly. The draft final report was also placed before this Court along with the relevant documents.



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5.The learned Government Advocate further submitted that the oil was found to be adulterated, even as per the report that was given by the Forensic Science Department and therefore, there is no question of returning back the oil, since it has become a material object in the crime.

6.Per contra, the learned counsel appearing for the petitioner submitted that a negative report was given by the Forensic Science Department and it was found that the oil was not found adulterated.

7.In the considered view of this Court, the third respondent has now taken a very specific stand that the oil in question is going to be shown as a material object in the case. Therefore, this Court cannot issue a direction in the writ petition. The third respondent is directed to file the final report before the concerned jurisdictional Court within a period of four weeks from the date of receipt of copy of this order. Since the report of the Forensic Science Department is also going to form part of final report, it is left open to the petitioner to file an appropriate petition before the concerned jurisdictional Court seeking for return of oil. The



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same shall be considered by the concerned jurisdictional Magistrate on its own merits and in accordance with law, within a period of four weeks from the date of filing of petition by the petitioner. This application shall be filed by the petitioner, after the final report is filed by the third respondent before the concerned Court.

8.This writ petition is disposed of with the above terms. No costs.

15.11.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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N.ANAND VENKATESH, J.

PNM

**ORDER IN
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