



W.P.(MD) No.21979 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 22.08.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR  
and  
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P.(MD) No.21979 of 2022  
and  
W.M.P.(MD)Nos.16148 and 16150 of 2022**

D.Sakthivel

: Petitioner

-vs-

- 1.The Principal Secretary,  
Revenue and Disaster Management Department,  
St. George Fort,  
Chennai.
- 2.The District Collector,  
Madurai, Madurai District.
- 3.The Superintendent of Police,  
Madurai, Surveyor Colony,  
Madurai District.
- 4.The Assistant Director,  
Mines and Minerals Department,  
District Collector Office Premises,  
Madurai.
- 5.The Revenue Divisional Officer,  
Thirumangalam,  
Madurai District.



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6.The Tahsildar,  
Thirumangalam,  
Madurai District.

7.The Village Administrative Officer,  
Village Administrative Office,  
Sengulam Village, Thirumangalam,  
Madurai District.

8.The Inspector of Police,  
Thirumangalam Town Police Station,  
Thirumangalam,  
Madurai District.

9.Mr.Sivaraman,  
Tahsildar,  
Thirumangalam Taluk,  
Madurai District.

10.Mr.Subash,  
The Village Administrative Officer,  
Sengulam Village, Thirumangalam,  
Madurai District.

: Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 8<sup>th</sup> respondent to release the Lorry of the petitioner bearing Registration No.TN 58 Y 6225 and consequently, direct the first respondent to initiate legal action against the 6<sup>th</sup> and 7<sup>th</sup> respondents.

For Petitioner : Mr.G.Prabhu Rajadurai  
for Mr.C.M.Arumugam

For R1, R2, R4 to R7 : Mr.P.Thilakkumar  
Government Pleader

For R3 & R8 : Mr.M.Veeranthiran  
Government Advocate (Crl. side)



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**ORDER**

**[Order of the Court was made by D.BHARATHA CHAKRAVARTHY, J.]**

This Writ Petition is filed for issuance of a Writ of Mandamus directing the eighth respondent to release the lorry of the petitioner bearing Registration No.TN-58-Y-6225 and to consequently direct the first respondent to initiate legal action against the respondents 6 and 7.

2. The case of the petitioner is that on 10.09.2022, his vehicle was lawfully involved in the transport of the mineral (Kadavakal-Chakai) with due transit pass from the quarry and that the mineral was loaded about 09.30 a.m., and a pass was issued by fixing the time limit as three hours from 09.00 a.m. The mineral was to be off-loaded at NRM School, Kandukulam, Thirumangalam Taluk, Madurai District, which is about 27kms from the loading site. When the lorry was proceeding towards the opposite side, on the way it was intercepted by the sixth and seventh respondents, namely, the Tahsildar, Thirumangalam and the Village Administrative Officer, Sengulam near Thaalamuthaiah Temple and he was stopped. Even after the driver showing the relevant pass, the vehicle was



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unauthorisedly stopped. Thereafter, the petitioner's son reached the spot and explained the fact and the sixth and seventh respondents permitted the petitioner to off load the mineral. However in the afternoon, again telephonically, the respondents directed the petitioner's vehicle be produced along with minor quantity of mineral in the guise of inspection. Thereafter, erroneously, they foisted the case and seized their lorry. The entire episode is a gross abuse of power and all the happenings from the morning has been recorded in various CCTV cameras along the roads. Therefore, the very First Information Report is an abuse of process of law and thus, the petitioner prays for release of lorry and for disciplinary action.

3. Heard *Mr.G.Prabhu Rajadurai*, the learned counsel appearing on behalf of the petitioner and *Mr.P.Thilak Kumar*, the learned Government Pleader appearing on behalf of the respondents 1, 2 and 4 to 7.

4. *Mr.G.Prabhu Rajadurai*, the learned counsel for the petitioner reiterated the facts and submitted that this is an extraordinary and glaring case where there has been gross abuse of power and this Court had in the earlier Judgments, had come down heavily against such a abuse of power and the Government itself has issued G.O.Ms.No.170 dated 05.08.2020 regulating the procedure of such high-handed actions on extraneous



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considerations. Therefore, the learned counsel would pray that in this case, this Court has to interfere and grant the relief as prayed for.

5. Per contra, the learned Government Pleader would submit that the transit pass which was submitted by the petitioner's vehicle was defective and therefore, upon entertaining a grave suspicion, a case has been registered and the lorry is now produced before the appropriate Magistrate and therefore, the petitioner has to file an application under Section 451 of the Code of Criminal Procedure for return of property and no relief can be granted in this writ petition.

6. At the outset on perusal of the records, certain facts glare on the face of the respondents. As per the First Information Report, it is stated that when the sixth and seventh respondents were proceeding for a re-enquiry at about 12.30 p.m., near Thaalamuthaiah Temple in Usilampatti Road, they intercepted the lorry and since the timings were not properly mentioned in the permit whether it was morning or evening, they could not ascertain the veracity of the permit and the driver of the vehicle ran away and hence, the complaint. Because the petitioner is contending with concrete averments regarding the timing and recording of the data in the various CCTV cameras at various places, now the counter affidavit filed by the sixth respondent does not stick to the said averments made in the



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First Information Report. Now it is mentioned that they have received complaints that huge mineral is used to fill up the earth in NRM School and therefore, they received complaint and were watching the vehicles transporting minerals in the said route. Therefore, in a regular procedural manner, they stopped the vehicle about 11.00 a.m. Upon inspection of the permit, 3 hours time limit is mentioned and A.m., and P.m., were not clearly legible and therefore, when they questioned the driver in the guise of producing the carbon copy, the driver voluntarily parked the vehicle near the Tashildar Office and went away. It can be seen that the averments in the counter affidavit is totally at variance with the averments in the First Information Report.

7. Be that as it may, the same would be a valid ground for the petitioner to prove the illegality, in the trial or approach this Court under Section 482 of the Code of Criminal Procedure to quash the First Information Report. But when the lorry has been seized, in the process of investigation in the said crime No.365 of 2022, the petitioner has to approach the appropriate Special Court for return of the lorry. However, he has chosen to file the present writ petition. But it can be seen that the lorry was seized on 10.09.2022 and its already lying in the custody of the respondents all these days. Therefore, the mutual allegations of the parties



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can be decided in an appropriate manner as observed above. But the lorry cannot be allowed to rot and get wasted.

8. Therefore, the Writ Petition is disposed of with the following directions:

(i) The eighth respondent is directed to videograph and photograph the vehicle and note down its engine number, features etc.;

(ii) The petitioner shall execute a bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) before the Principal District Judge/Special Court under the Mines and Minerals (Development and Regulations) Act 1957, Madurai;

(iii) Upon such execution of the own bond, the vehicle shall be returned by the respondents 6 to 8 to the petitioner;

(iv) The petitioner shall produce notarized copies of the registration certificate, insurance copy, permit etc., of the vehicle before the learned Principal District Judge/Special Court;



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(v) Then the petitioner shall not alienate the vehicle and should produce before the trial Court and as and when its required;

(vi) It will be open for the petitioner to prove his allegations either during the trial or by filing such appropriate application for quashing the First Information Report and it is only upon the conclusive proof of the allegations, the question as to initiation of disciplinary proceedings can be considered and it cannot be ordered at this preliminary stage.

No costs. Consequently, connected miscellaneous petitions are closed.

**[S.S.S.R., J.] [D.B.C., J.]**

**22.08.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
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To

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2.The District Collector,



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