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Crl.OP.No.8855 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.8855 of 2023

R.Senthilvel

... Petitioner

Vs.

1. The Inspector of Police,
Kangeyam Police Station,
Tiruppur District.

2. P.Eswaran,
The Motor Vehicles Inspector,
Grade-I, Unit Office,
Kangeyam, Tirupur District.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in FIR in Cr.No.0069 of 2021 dated 11.02.2023 on the file of the first respondent and quash the same.

For Petitioner : Mr.S.Rajeni Ramadass

For Respondents : Mr. S. Udaya Kumar,
Government Advocate (Crl.Side)
for R1

ORDER



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The petitioner is the owner of tour buses and holder of contract carriage of permit issued by the State Transport Authority. His vehicle bearing Regn.No.PY-01-CF-6099 was intercepted by the defacto complainant and found that there is difference in the registration number, engine number when compared with RC Book. Therefore, the vehicle was seized.

2. According to the petitioner, he has two vehicles, one bearing Regn.No. PY-01-CG-5099 and another bearing Regn.No.PY-01-CF-6099. Both the vehicles were sent to mechanic shop for mending fault. At that time, the Mechanic by inadvertence has changed the number plates. Due to the exchange of number plates, when the vehicle was intercepted and checked, there was variance in the registration number and engine number. The vehicle after being seized by the police, the petitioner has filed the writ petition seeking mandamus, to release his vehicle bearing Regn.No.PY-01-CG-5099.

3. This Court vide order dated 06.02.2023 has directed the second respondent/ The Regional Transport, Thiruppur South, to release the



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petitioner's vehicle bearing PY-01-CG-5099, but, wrongly carrying the registration number (Regn.No.PY-01-CF-6099). However, the second respondent by that time has handed over the vehicle to the police and the police has registered the FIR in Cr.No.69 of 2023 on 11.02.2023. The vehicle is now been produced before the Court as a ' case property'.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police on getting instructions from the Investigating Officer submits that since the vehicle of the petitioner was carrying a wrong registration number, the police has registered the case on the complaint given by the Motor Vehicle Inspector for the offence under Section 420 IPC in Cr.No.69 of 2023. The said vehicle was produced before the learned Judicial Magistrate on 21.03.2023 and assigned P.R.No.39 of 2023. Since there is no space to park the vehicle in the court premises, it has been handed over to the Regional Transport Office, Kangeyam and it is presently parked in the Regional Transport Office, Kangeyam.

5. The petitioner herein being aggrieved by the factum of registering the complaint under Section 420 of IPC.



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6. When there is no intention of filing petition to quash the complaint, this Court on perusing the record finds that the petitioner herein is owner of two buses, one bearing Regn.No. PY-01-CG-5099 and another bearing Regn.No.PY-01-CF-6099. Admittedly, the vehicle bearing Regn.No. PY-01-CG-5099 with wrong number plate bearing Regn.No.PY-01-CF-6099 was plying and therefore, the same was intercepted and seized. Whether this act will attract the offence under Section 420 of IPC is the matter for consideration. Section 420 of IPC reads as below:

“420.Cheating and dishonestly inducing delivery of property:- Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine”.

7. In this case apparently, the petitioner had no intention of



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cheating any person or had an intention of deceiving any person. He had vehicle with Regn.No. PY-01-CG-5099 and PY-01-CF-6099. The reason for exchange of the number plate been explained and the explanation is possible.

8. This Court on different occasion has considered the fact and has directed the Regional Transport Officer to release the petitioner's vehicle. However, this order has not implemented by the Regional Transport Officer stating police has registered the FIR and taken cognizance of the offence. The offence of cheating is taken cognizance by the respondent police is based on the complaint given by Regional Transport Officer.

9. The tenor of the complaint reveals that while inspection, the engine number and the chasis number and registration number which was intercepted by the defacto complainant did not tally and for the explanation given by the owner of the vehicle, the petitioner has sought for re-extract copy of both the vehicles bearing Regn.PY-01-CF-6099 and PY-01-CG-5099. Till date, the extracts not received from Regional Transport Office, Pondicherry.

10. Since the petitioner has not claimed about the return of vehicle,



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the defacto complainant namely Motor Vehicle Inspector, Grade -I, Regional Transport Office, Kangeyam has given a written complaint on 11.02.2023 and the same has been registered in Cr.No.69 of 2023.

11. It is to be noted that the complaint to the police been given after the disposal of writ petition in WP.No.3123 of 2023 which has specifically directed the Regional Transport Officer, Thiruppur to return the vehicle of the petitioner.

12. In the complaint, it is stated that the owner has not sought for return of vehicle, whereas after making efforts to get back the vehicle, the petitioner has approached this Court by way of filing a writ petition got a positive order much before the registration of complaint.

13. Now, after the order of this Court, the Regional Transport Officer, Thiruppur through the Motor Vehicle Inspector has given the complaint to the police, got it registered and holding the custody of the vehicle with himself depriving the petitioner from earning his livelihood from the vehicle.

14. This Court finds that FIR been registered with malicious



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intention to deprive the petitioner herein from getting back the vehicle as per the order passed in WP.No.3125 of 2023. The contention in the FIR is that with fake number plate, the vehicle was plying. Whereas, the petitioner has established that it is only due to inadvertence, the number plates of the vehicles have been inter-changed and it has been established by him that he is the lawful owner of the vehicle bearing Regn.No.PY-01-CF-6099 as well as the vehicle bearing Regn.No.PY-01-CG-5099. Therefore, this Court finds force in the submissions made by the learned counsel for the petitioner that this FIR has to be quashed on the ground of malice. Hence, this Criminal Original Petition is allowed.

15. Accordingly, the first respondent police is directed to hand over the vehicle to the petitioner herein within seven days from the date of receipt of a copy of this order.

16.07.2024

Vv

To



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1. The Inspector of Police,
Kangeyam Police Station,
Tiruppur District.
2. The Public Prosecutor,
High Court of Madras,
Chennai.

Dr.G.JAYACHANDRAN,J.



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