



W.P.(MD) No.12324 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.12324 of 2024

S.Murali Krishnan

... Petitioner

Vs.

1.The Director General of Police,
Mylapore, Chennai – 600 004.

2.The Superintendent of Police,
Virudhunagar District, Virudhunagar.

3.The Deputy Superintendent of Police,
Sivakasi Sub Division, Sivakasi,
Virudhunagar.

4.The Inspector of Police,
Thiruthangal Police Station,
Thiruthangal,
Virudhunagar.

5.Ganesan
Reserve Sub Inspector of Police(Traffic),
Traffic Police Station,
Virudhunagar.

6.The Regional Transport Officer,
Virudhunagar.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to directing the respondents 1 to 6 to consider the representation dated 06.04.2024 of the petitioner and pass appropriate order for cancellation of the endorsement of non-payment of fine for the offence of Drunken Driving punishable under Section 185 of the Motor Vehicles Act, made in the Registration Certificate of the Vehicle TN 58 BY 9187 on the file of the 6th respondent.

For petitioner : Mr.Sasi Kumar

For respondents : Mr.S.Manikandan

Government Advocate (Crl.Side) for R1 to R4

Mr.A.Sivannpandian

Government Advocate for R6

ORDER

Heard the learned counsel for the petitioner, the learned Government Advocate (Crl.Side) for the respondents 1 to 4 and the learned Government Advocate for the sixth respondent.

2. The petitioner has purchased the subject vehicle namely, Goods Carrier Commercial Vehicle bearing Registration No. TN 58 BY 9187 from Cholamandalam Investments and Finance Company Limited, who had financed to the purchase of the vehicle for the previous owner one E.Ramesh.



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3. It appears that the said Ramesh, who had engaged one Mohammed Riyas, as a Driver was found to be driving the vehicle and therefore, a challan was issued for drunken driving on 28.12.2021.

4. According to the petitioner, the said driver had also paid the challan. However, it has not been reflected in the portal and therefore, the petitioner, who was purchased the vehicle on 29.11.2023 is unable to re-register the vehicle in his name.

5. The learned counsel for the petitioner further submits that the petitioner is willing to pay the aforesaid fine amount.

6. On the other hand, the learned Government Advocate (Crl.Side) for the respondents 1 to 4 and the learned Government Advocate for the sixth respondent would submit that the fine has to be paid only by the offender namely, Mohammed Riyas and not by the petitioner or the previous owner or the financier and if the fine remains unpaid, it will be blacklisted and the vehicle cannot be legitimately transferred in the name of the petitioner, although the petitioner has



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purchased it from the financier.

7. I have considered the arguments advanced by the learned counsel for the petitioner, the learned Government Advocate (Crl.Side) for the respondents 1 to 4 and the learned Government Advocate for the sixth respondent. In my view, there is no justification for not re-registering the vehicle in the name of the petitioner, merely because of the Driver, who is now absconding as failed to pay the fine in time.

8. That apart, the subject vehicle was hypothecated to Chola Mandalam Investments and Finance Company Limited by one Ramesh, who perhaps was unable to pay the loan and therefore, the vehicle was seized. Later, in an auction on 29.11.2023, the petitioner purchased the vehicle after paying a sum of Rs.12,60,500/- + GST Rs.37,000/-. The Transport Department, is without any remedy to recover the fine, even if the fine cannot be collected from the petitioner under Section 206(4) as inserted by Section 88 of Act 32 of 2019 with effect from 01.10.2020. Section 206(4) of the Motor Vehicle Act, 1988, which reads as under:

“A police officer or other person authorised in this behalf by the State Government shall, if he has reason to



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believe that the driver of a motor vehicle has committed an offence under any of sections 183, 184, 185, 189, 190, 194C, 194D, or 194E, seize the driving licence held by such driver and forward it to the licensing authority for disqualification or revocation proceedings under section 19:

Provided that the person seizing the licence shall give to the person surrendering the licence a temporary acknowledgement therefor, but such acknowledgement shall not authorise the holder to drive until the licence has been returned to him."

9. Therefore, there is no justification for not re-registering the vehicle, particularly, when the petitioner is *bona fide* purchaser of the vehicle. The amount of fine that is required to be paid, can be collected from the petitioner, without prejudice the rights of the Department to proceed against the offender namely, Mohammed Riyas to cancel the license for violation of the provisions of Motor Vehicle Act, 1988.

10. The petitioner is given liberty to pay the fine, without prejudice the rights of the Department before the Judicial Magistrate No.2, Sivakasi.

This Writ Petition stands disposed of, by the directing the sixth respondent to make suitable changes in the Registration Certificate of the



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petitioner within a period of four weeks from today, subject to the petitioner paying aforesaid fine amount without prejudice the rights of the Department and to cancel the license of the offender namely, Mohammed Riyas. No costs.

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Internet : Yes / No

apd

To

1.The Director General of Police,
Mylapore, Chennai – 600 004.

2.The Superintendent of Police,
Virudhunagar District, Virudhunagar.

3.The Deputy Superintendent of Police,
Sivakasi Sub Division, Sivakasi,
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4.The Inspector of Police,
Thiruthangal Police Station,
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This case is listed today under the caption "for clarification" at the instance of the learned counsel for the petitioner.

2. It is informed by the learned counsel for the petitioner that the learned Judicial Magistrate No.II, Sivakasi, has declined to accept the fine amount, as there is no specific direction to accept the fine amount in the order dated 12.06.2024.

3. The order indeed has not expressly directed the learned Judicial Magistrate No.II, Sivakasi, to accept the fine amount that is to be paid by the delinquent driver. Since the vehicle has to be released on payment of fine without prejudice to the Department to proceed against the driver, the learned Judicial Magistrate No.II, Sivakasi, is required to accept the fine amount. Therefore, in order dated 12.06.2024, in W.P.(MD)No.12324 of 2024, the following paragraph shall be added.



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The petitioner is permitted to deposit the fine amount payable by the delinquent driver namely, Mohammed Riyas before the learned Judicial Magistrate No.II, Sivakasi, so as to facilitate the petitioner to re-register the vehicle in his name. The learned Judicial Magistrate No.II, Sivakasi, shall also proceed against the delinquent driver, who has been accused of traffic offence, in accordance with law.

4. Registry is directed to insert the above paragraph at the end of the order dated 12.06.2024, in W.P.(MD)No.12324 of 2024 and issue fresh order copy and also mark a copy of the order to the learned Judicial Magistrate No.II, Sivakasi.

11.07.2024

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