



W.P(MD)No.2269 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.2269 of 2024

SPK and CO,
Represented by its Manager,
T.Senthilvel.

... Petitioner

Vs.

- 1.The District Collector,
Virudhunagar District,
Viruhunagar.
- 2.The Joint Director of Geology and Mines,
Virudhunagar,
Virudhunagar District.
- 3.The Assistant Director of Geology and Mines,
Virudhunagar,
Virudhunagar District.
- 4.The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.
- 5.The Deputy Superintendent of Police,
Aruppukottai Division,
Virudhunagar District.
- 6.The Inspector of Police,
Thiruchulli Police Station,
Virudhunagar District.

... Respondents



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PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to release the petitioners vehicle bearing Registration No.TN-67-BV-1822 (Taurus lorry) within the time frame stipulated by this Court.

For Petitioner : Mr.R.Muneeswaran
For Respondents : Mr.R.Ragavendran
Government Advocate

ORDER

The matter is listed today under the caption 'for being mentioned', at the instance of the learned counsel appearing for the petitioner to refund the deposited amount of Rs.50,000/- on the file of the Revenue Divisional Officer, Aruppukottai, Virudhunagar District.

2.When the matter came up for hearing on 06.02.2024, this Court passed the following order:

'This Writ Petition is filed for issuance of a Writ of Mandamus, directing the respondents to release the petitioner's Taurus Lorry bearing



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registration No.TN 67 BV 1822 seized by the sixth respondent on 30.09.2023.

2. The case of the petitioner is that the petitioner is the owner of the vehicle viz., Taurus Lorry bearing Registration No.TN-67-BV-1822. On 30.09.2023, the sixth respondent police seized the vehicle and registered a case in Crime No.35 of 2024, for the offences under Section 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, as if the vehicle was carrying blue metal without valid permit. The petitioner approached the second and third respondents several times and requested them to release the vehicle. However, the second and third respondents did not release his vehicle. In the circumstances, on 23.11.2023, the petitioner has sent a detailed representation to the second respondent to release his vehicle. But, they have not taken any action on the petitioner's representation. Hence, the petitioner has filed the present writ petition seeking direction to the respondents to release his vehicle, by considering his representation, dated 23.11.2023.

3. Heard Mr.B.Muneeswaran, learned counsel for the petitioner, Mr.S.RA.Ramachandran, learned Additional Government Pleader appearing for the



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respondents 1 to 4 and Mrs.M.Aasha, learned Government Advocate (Crl. Side) appearing for the respondents 5 and 6.

4. The petitioner's vehicle viz., Taurus Lorry bearing Registration No.TN-67-BV-1822 is presently in the custody of the fourth respondent. The vehicle is said to have been used for illegal transportation of blue metal.

5. Considering the fact that if the vehicle is allowed to be kept idle by exposing the same to sun and rain, it would certainly diminish its value. Therefore, this Court is of the view that the vehicle may be released by imposing conditions on the petitioner. Accordingly, the fourth respondent is directed to release the vehicle in question to the petitioner, within a period of four weeks from the date of receipt of a copy of this order, subject to the following conditions:

"(i) The petitioner shall produce necessary documents before the concerned respondent to establish the ownership of the vehicle in question;

(ii) The petitioner shall deposit a sum of Rs. 50,000/- (Rupees Fifty Thousand only), before the Revenue Divisional Officer, Aruppukottai, Virudhunagar District, as non-refundable deposit within



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two weeks from the date of receipt of a copy of this order;

(iii) The petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future and shall produce the same as and when required by the respondents;

(iv) On production of deposit receipts and undertaking the vehicle in question shall be returned to the petitioner;

(v) The petitioner shall not alienate the vehicle in question till the disposal of the proceedings before the authority concerned; and

(vi) The petitioner is also directed to participate in the enquiry and legal proceedings to be conducted by the respondents."

6. However, it is made clear that if the vehicle involves in the crime for the second time, the concerned respondent shall not release the vehicle thereafter.

7. With the above directions, this Writ Petition is disposed of. No costs.'

3.Pursuant to the said order, dated 06.02.2024, the petitioner, on 12.02.2024, had deposited a sum of Rs.50,000/- (Non-refundable deposit) on the file of the Revenue Divisional



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Officer, Aruppukottai, Virudhunagar District and as per the orders of this Court, the vehicle was released.

4.Subsequently, the order passed by this Court in W.P(MD)No.2269 of 2024, dated 06.02.2024, was recalled on 14.02.2024, which reads as follows:

'When the matter was posted for 'Maintainability' on 30.01.2024, the learned Additional Government Pleader appearing for the respondents submitted that the respondents have no objection to grant the prayer sought for in this writ petition. Hence, this Court directed the Registry to number this petition. Accordingly, it was numbered and posted for admission on 06.02.2024.

2. *When the matter was taken up for hearing on 06.02.2024, the learned counsel for the petitioner submitted that this Court on earlier occasion has granted the relief as sought for in this petition and he sought the similar relief in this petition also. The learned Additional Government Pleader had not objected the same. Further, at that time, it was represented by both sides that no First Information Report has been filed that is the reason*



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the Principal District Judge has rejected. Hence, based on the said submissions, this Court has passed the similar order in this petition also. It was subsequently reported that an FIR has been filed recently, this Court found that the said order cannot be passed by this Court in view of the order passed by the Honourable Full Bench and the Honourable Division Bench of this Court as already FIR has been filed. As per the order passed by the Honourable Division Bench of this Court, in W.P(MD)Nos.19936 of 2017 etc., batch dated 29.10.2017, the petitioner has to approach the competent Court. Hence, this matter is listed today under the caption for being spoken to, at the instance of the learned Additional Government Pleader.

3. When the matter is taken up for hearing today, the learned Additional Government Pleader would submit that in this case, First Information Report has been filed and they would proceed further. Therefore, in view of the above said order dated 29.10.2017 made in W.P(MD)Nos. 19936 of 2017 etc., batch, the petitioner has to approach the competent Court. Accordingly, the order passed by this Court dated 06.02.2024 made in W.P(MD) No.2269 of 2024 is recalled. The respondent police is directed to produce the subject



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matter vehicle forthwith to the concerned Court and proceed as per law.

4. Post the matter on 15.02.2024 for reporting compliance.'

5. When the matter came up for hearing on 15.02.2024, the learned Special Government Pleader submitted that the vehicle was seized from the petitioner and handed over to the concerned police station. Hence, this Court directed the respondent police to produce the said vehicle before the learned Judicial Magistrate, Thiruchuli.

6. Accordingly, the vehicle was handed over before the learned Judicial Magistrate, Thiruchuli and later on, subsequent to the filing of the petition before the learned Judicial Magistrate, Thiruchuli, the vehicle was released and returned back to the petitioner.



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7.Now, the learned counsel appearing for the petitioner would submit that the deposited amount of Rs.50,000/- on the file of the Revenue Divisional Officer, Arupukkottai, Virudhunagar District, shall be refunded to him, as the order passed by this Court, dated 06.02.2024, has been re-called.

8.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

9.Considering the submissions made on either side, this Court is of the view that the petitioner has deposited the amount of Rs.50,000/- as non-refundable deposit on the file of the Revenue Divisional Officer, Aruppukottai, Virudhunagar, the same cannot be refunded and the said amount shall be deposited before the concerned Magistrate Court in Crime No.35 of 2024 on the file of Thiruchuli Police Station, Virudhunagar District.



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10.Regarding the refund of the amount, appropriate decision to be taken by the trial Court on the outcome of the trial.

11.With the above observation, this Writ Petition is disposed of.

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NCC : Yes/No
Index : Yes/No
ps

To

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V.BHAVANI SUBBAROYAN, J.

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