

(2010) 10 MAD CK 0209

Madras High Court (Madurai Bench)

Case No: Writ Petition (MD) No. 6115 of 2008 and W.P. (MD) No. 1 of 2008

M. Palanimuthu

APPELLANT

Vs

The Regional Transport Officer

RESPONDENT

Date of Decision: Oct. 27, 2010

Acts Referred:

- Motor Vehicles Act, 1988 - Section 19(1)
- Penal Code, 1860 (IPC) - Section 304A

Hon'ble Judges: K. Chandru, J

Bench: Single Bench

Advocate: S. Arunachalam, for the Appellant; S.C. Herold Singh, Government Advocate, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

K. Chandru, J.

The petitioner was a driver under the Tamil Nadu State Transport Corporation. On 01.06.2008, when he was driving the bus between Thirupparankundram and Mahatma Gandhi Nagar, the bus met with an accident near Gorippalayam. Due to the accident, the rider of the two wheeler succumbed to the injuries and subsequently died. Therefore, a case u/s 304-A of IPC was registered against the petitioner and investigation was conducted by the Traffic Investigation Branch II, Tallakulam. The petitioner had applied for bail, but, however, in view of the criminal investigation, his driving licence was seized by the Traffic Police.

2. Aggrieved by the seizure of the Traffic Police, the petitioner filed W.P.(MD) No. 5099 of 2008, seeking for return of the driving license. This Court disposed of the Writ petition by an order dated 20.06.2008. While disposing the Writ petition, this Court held that u/s 19(1) of the Motor Vehicle Act, the licensing authority has got power to suspend the licence after conducting an enquiry. Accordingly, the licence

was returned to the petitioner.

3. However, a show-cause notice dated 02.07.2008 was issued to the petitioner, as to why his driving licence should not be suspended. In the very show-cause notice it was alleged that the petitioner while driving the bus had caused the accident and the death of the rider of the two wheeler was also mentioned. The report of the Inspector of Police, Madurai (North) was also referred to. The petitioner gave his reply dated 04.07.2008 stating that he was not responsible for the accident and the criminal case is not over. Notwithstanding his request for copies of the report, the impugned order came to be passed.

4. In the impugned order, it was stated that the petitioner was involved in a criminal case in Crime No. 131 of 2008 and the Motor Vehicle Inspector had recommended the suspending of his licence due to the accident caused by him which had resulted in the death of a passenger. Therefore, he invoked powers u/s 19(1)(c) and the petitioner's licence was suspended from 07.07.2008 to 06.01.2009. It is this order which is under challenge in this Writ petition.

5. Notice of motion was ordered on 15.07.2008 and interim stay was granted for a period of four weeks. Subsequently, the same was not extended.

6. Mr.S.Arunachalam, learned Counsel for the petitioner contented that the order was a mechanical order and was written in a cyclostyled form. Therefore, there was no application of mind. This Court is unable to accept the submission made by the learned Counsel for the petitioner. While the petitioner had applied for the return of licence a positive order was passed by this Court. The power to suspend a licence is derived from Section 19(1). If a vehicle was involved in an accident either before or for the very same accident then the power is available to the authority to suspend the licence for a limited period.

7. In the present case, the only requirement as held by this Court earlier was that the petitioner should be heard before passing the order. Accordingly, a show-cause notice was given. It is not the case of the petitioner that the vehicle was not involved in the accident, which resulted in a criminal case. It is suffice u/s 19(1)(c) of the Motor Vehicles Act, if the vehicle is used for commission of a cognizable offence or any action has been committed which is danger to the public, then the power of the authority to intact for ordering of suspension. Even under the relevant rules there is an appeal to the Appellate Authority. The petitioner did not excise that option. Even otherwise, this Court is not inclined to entertain the Writ petition.

8. In this context, it is necessary to refer a recent judgment this Court in W.P. Nos. 18042 & 18490 of 2010 (A. Sekar v. The Regional Transport Officer, Thiruppur South), wherein this Court had emphasised that the need for the authority to take a prompt action u/s 19(1) in view of the alarming increase of road accidents and the statistics furnished for the year 2009 clearly showed that 90% of the accidents had occurred due to driver's negligence.

9. Hence, this Court is not inclined to entertain the Writ petition. Accordingly, the Writ petition stands dismissed. Consequently, connected miscellaneous petition stands closed. However, there shall be no order as to costs.