
(1998) 10 AHC CK 0044
In the Allahabad High Court
Case No : Writ Petition No. 1794 (C/S) of 1998

Ram Lal Yadav

APPELLANT

Vs

Chief Judicial Magistrate, Lko. and Another

RESPONDENT

Date of Decision : 09-10-1998

Acts Referred:

Motor Vehicles Act, 1988 — Section 207

Citation : (1998) 10 AHC CK 0044

Hon'ble Judges : A.N. Gupta, J

Final Decision : Disposed Of

Judgement

A.N. Gupta, J.—According to the petitioner, he is the owner of a tractor bearing registration No. U.P. 32 T/1154. On 29/7/1998, petitioner's aforesaid director alongwith trolley was interested by the Assistant Road Transport Officer (Enforcement) is Gomti Nagar, Lucknow City. The said vehicle was seized under the order

passed under subsection (1) of Section 07 of the Motor Vehicle Act on the ground that the trolley was unregistered, registration certificate of the tractor could not be produced and it was not insured and the certificate for smoke emission (pollution control) was not available. It was also mentioned that the tractor and trolley were engaged in transporting earth from one place to another place on payment. The tractor was driven by a person having no licence. He did not have permit for using tractor for transporting goods from one place to another on hire. The petitioner was thus, evading payment of goods tax and road tax. According to the petitioner, he approached the Transport Authorities but they asked the petitioner to deposit a sum of Rs. 18,500/as goods tax and passenger tax which had been denied in the counteraffidavit by the Additional Regional Transport Officer (Enforcement). The tractor alongwith trolley are lying at the police station the direction of transport authorities, who had neither sent any challan to the Magistrate nor have passed any further orders. This writ petition has been preferred with the prayer that the opposite parties i.e. transport authorities be

directed to submit challan before Chief Judicial Magistrate, Lucknow. Petitioner had approached the Magistrate for release of vehicle but the Chief Judicial Magistrate by means of his order dated 781998 rejected the application of the petitioner on the ground that no criminal case was pending before him.

2. There appears to be no justification for the transport authorities to keep the vehicle of the petitioner seized without further action in the matter. They have neither sent the challan to the court of Magistrate concerned nor have taken further action in the matter. Since the vehicle has been seized under subsection (1) of Section 207 of the Motor Vehicle Act, the remedy of the petitioner was to have approached before the transport authorities with relevant documents for release of vehicle and the transport authorities after verification of such documents, may release the vehicle subject to the condition as may be imposed as has been provided under subsection (2) of Section 207 of the Motor Vehicle Act which seems to be silent as to what further action may be taken in the matter if the petitioner does not approach the transport authorities as provided under subsection(2) of Section 207 of the Motor Vehicle Act. However, it does not mean that the transport authorities shall keep the vehicle seized indefinitely. If the petitioner has committed the offence under the Motor Vehicle Act such as driving the same without driving licence, without permit and without registration, the action which can be taken by the Transport authorities is to send the Challan to the Court of Magistrate concerned and to realize road tax or goods tax.

3. In view of this, it is directed that the Transport Authority concerned shall within a week from the date of receipt of this order, send a challan to the competent court in respect of the offence which the petitioner might have committed in their opinion. The transport authority shall intimate the petitioner by registered post if any of amount of tax etc. are due, or to be paid by the petitioner within the said period. The petitioner shall be free to represent his case in writing before the Transport Authority concerned within the said period.

Petition is disposed of finally in the terms indicated above. Petition disposed of.