

IN THE COURT OF SPECIAL MOBILE MAGISTRATE (TRAFFIC)
SRINAGAR

File No. 49-A/C.
Date of Institution: 11/09/2023.
Date of Order: 05/02/2024

IN THE CASE OF:

Suhail Manzoor Bhat
S/o Manzoor Ahmad Bhat
R/o Summer Bugh, Lasjan, Srinagar.

(Applicant).

Through: Mr. Tawseef Manzoor Bhat (Advocate).

Versus

SSP Traffic Police City Srinagar.

(Non-applicant).

Through. Ld. APP.



IN THE MATTER OF:

Application seeking dismissal of the e-challan No. JK89171230202214002 against the Scooty bearing registration No. JK01AL-2038.

CORAM: Mr. Mudasar Farooq U.I.D.NO: JK00204

ORDER

1. This order shall dispose of the instant application filed by the above named applicant on the grounds that due to the mistake done by the official of the traffic department concerned, the challan was to be sent to the vehicle bearing

registration No. JK01AF-2038 and it was sent to vehicle Scooty bearing registration No. JK01AL-2038 which belongs to the applicant herein. That due to the mistake committed by the officials of the traffic department, the applicant has to suffer a loss and the applicant has to spent his precious time and money on the mistake which was committed by the traffic department. Therefore, prayed that the application be accepted and the challan pending against the applicant be disposed off with the direction to the officials of the department to dispose off the challan accordingly which has been done due to the negligence of the department.

2. On that application objections were obtained from the Ld. APP, who submitted that the status of challan reveals that the violation has been done by vehicle bearing Regd. No. JK01AF-2038 as is evident from the photograph uploaded on e-challan portal. This prima-facie substantiates that challan has been issued to vehicle bearing Regd. No. JK01AL-2038 inadvertently. Same be as such disposed of after calling report from challaning officer.
3. Thereafter concerned challaning officer/SO namely Shah Nawaz Inspector No. 117/PAU presently posted as DTI at Panthachowk was called and his statement was recorded on 15/11/2023 with respect to the instant application wherein he submitted that he inadvertently challaned a vehicle (Scooty) bearing registration No. JK01AL-2038 for the traffic violation of not wearing the helmet, whereas the actual number of the said vehicle was JK01AF-2038 (Scooty). Hence prayed that due to his inadvertence the challan be registered for the vehicle bearing registration No. JK01AF-2038.
4. Heard and considered.
5. After hearing the Ld. APP, applicant and perusing the record on file it came to the fore that as per the e-challan number JK89171230202214002 a vehicle (Scooty) bearing registration No. JK01AL-2038 was challned for without helmet under the provisions of Section-177 M.V Act and a fine of Rs. 1000/- was imposed on the

violator. In the application the applicant submitted that the traffic police Srinagar has wrongly mentioned the number of applicant's vehicle bearing registration No. JK01AL-2038, said challan do not belong to him and prayed for dismissal of said e-challan. In the objections the Ld. APP has submitted that the challan has been issued advertently against the applicant's vehicle as such be disposed. Accordingly, the challaning officer/SO was called upon to record his statement in respect of the instant application who submitted that he challaned a vehicle bearing registration No. JK01AL-2038 for the traffic violation of not wearing the helmet, whereas the actual violating number of the said vehicle was JK01AF-2038 and it was done inadvertently.

6. Report as well as hard copy of relevant records were also called from office. Records reveal that above mentioned E-challan was consumed by the Virtual Court vide case No. TC/61248/2023. Records further reveal that proceedings of the said e-challan were completed by the Virtual court and proposed fine of Rs.500/- had been imposed upon the applicant/driver for wrong parking. Records also suggest that the applicant has responded to the electronic message of the Virtual court within the prescribed time and exercised the option of contesting the said e-challan as such the instant e-challan landed in CIS of this court vide No. JK89171230202214002. Perusal of copy of e-challan, which is part of file, reveals that the e-challan bearing No. JK89171230202214002 has been issued against the vehicle bearing registration No. JK01AL-2038. As per e-challan the same e-challan number is also *sub-judice* in CIS system of our court against Suhail Manzoor bearing challan No. JK89171230202214002.
7. After applying the judicial mind and analyzing the record on file and in view of the statement of the challaning officer/S.O, it is quite clear that vehicle bearing registration No. JK01AL-2038 has been wrongfully e-challned due to the inadvertence and carelessness of the challaning officer/S.O present on the spot on

the day of occurrence namely Shah Nawaz Inspector No. 117/PAU for his inadvertence and carelessness. Actually the concerned S.O had to challan a vehicle JK01AF-2038 (Scooty), but due to inadvertence he has challaned another vehicle under registration No. JK01AL-2038 (Scooty) by virtue of e-machine and issued challan No. JK89171230202214002. Having regard to the facts brought to the notice of this court as well as the material on record it *prima facie* appears that e-challan bearing No. JK89171230202214002 registered in CIS system vide registration No. TC/61248/2023 has not been issued in accordance with the rule and therefore, in the interest of administration of justice and as the applicant's vehicle was not present on the spot on the day of occurrence and was inadvertently been involved in the said e-challan, the aforementioned e-challan bearing No. JK89171230202214002 for the reasons stated above is dismissed as "**not proved and patently defective**". The instant E-challan be accordingly taken down/cancelled from the Pariwahan Portal. With the direction to the SSP Traffic City Srinagar to institute e-challan against the actual violator bearing registration No. JK01AF-2038. For mental agony, harassment and fees of the lawyer, damages/compensation to the amount of Rs. 1000/- be paid to the applicant namely Suhail Manzoor and it shall be paid by the concerned S.O namely Shah Nawaz Inspector No. 117/PAU. The SSP Traffic City Srinagar is also directed to obtain an affidavit from the said S.O/Challaning officer to remain cautious and careful while issuing the e-challans through e-machines in near future and submit the same before this court.

8. Before parting with it needs to be pointed out that e-challan system is not being operative in accordance with the law governing the subject. It appears that either the traffic cops manning the system are not fully trained to operate the e-challaning system or traffic cops are not taking due care and caution at the time of initiation of e-challan. SSP Traffic (City), Srinagar is hereby directed to sensitize

the traffic officials dealing with e-challaning system so that the innocent persons will not be forced to face difficulties in future. Copy of this order be forwarded to SSP Traffic (City) Srinagar for information and compliance.

9. Compliance report be submitted before this court with respect to the directions mentioned supra within one week. The application is accordingly disposed off and be consigned to records after its due compilation.

Announced
05/02/2024

Sd/-
(Mudasar Farooq)
Spl Mobile Magistrate (Traffic)
Srinagar.

Copy forwarded to SSP Traffic Srinagar (City) for information and compliance.

M. Farooq 05-02-24
Spl Mobile Magistrate (Traffic)
Srinagar
Special Mobile Magistrate (Traffic)
1st Class Kashmir Province
Srinagar