Transport Department

From
The Principal Secretary/
Transport Commissioner,
Chepauk,
Chennai-600 005.

To
All Zonal Officer's in Tamilnadu,
All Regional Transport Officer's in Tamilnadu,
All Motor Vehicle Inspector's in
Tamilnadu.

Letter No.30097/H2/2012, Dated: .31.05.2012..

Sir, Sub: Motor Vehicles -Judgement of Hon'ble Supreme Court of India - New Delhi - Remove dark films from the motor Vehicles windows regarding,

Ref: 1. Judgement of Hon'ble Supreme Court of India, New Delhi, in W.P.(CIVIL) No.265 of 2011, dated:27.04.2012.
2. Press Release from "The Hindu", dated:22.05.2012.

I enclose herewith a copy of the references cited.

Rule 100 of the Central Motor Vehicle Rules, 1989 defines the standards about safety glasses to be fitted in motor vehicles.

The Hon'ble Supreme Court of India New Delhi in its Judgement dated:27.04.2012 has prohibited the use of black films of any Visual Light Transmission (VLT) percentage or any other material upon the safety glasses, windscreens(front and rear) and side glasses of four wheeled vehicles throughout the country with effect from 04.05.2012.

In obedience to the judgement of the Hon'ble Supreme Court of India New Delhi, all the Regional Transport Officers, all motor Vehicle Inspectors of this department are instructed to remove the dark film pasted on the windscreens and side glasses of the vehicles at the time of checking without giving any room for complaints.

The Registering Authorities are also instructed to look ;into this aspect at the time of registration of motor vehicles.

The Zonal Officers are requested to monitor this work in their jurisdictions and send the report of compliance at the earliest.

Sd/-Dr.T.Prabhakara Rao,
Principal Secretary/Transport Commissioner

REPORTABLE IN THE SUPREME COURT OF INDIA CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 265 OF 2011

Avishek Goenka **...Petitioner**

Versus

Union of India & Anr. **... Respondents**

JUDGMENT

Swatanter Kumar, J.

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1. Alarming rise in heinous Crimes like kidnapping, sexual assault on women and dacoity have impinged upon the right to life and the right to live in a safe environment which are within the contours of Article 21 of the Constitution of India. One of the contributory factors to such increase is use of black films on windows/windshields of four-wheeled vehicles. The petitioner, as a public spirited person, has invoked the extraordinary jurisdiction of this Court under Article 32 of the Constitution in the present public interest litigation, praying for certain directions to stop this menace. According to the petitioner, this Court should issue a writ or direction requiring use of such safety glasses on the windows /windshields in vehicles having 100 per cent Visual Light Transmission (for short VLT*) only and, to that extent, the petitioner challenges the correctness of Rule 100 of the Motor Vehicles Rules, 1989 (for short "the Rules"). He also prays for prohibition on use of black films on the glasses of the vehicles, proper implementation of law in that behalf and finally, for taking stringent actions against the offenders, using vehicles with black filmed glasses. He also prays that a larger police force should be deputed to monitor such offences. '

2. The use of black films upon the vehicles gives immunity to the violators in committing a crime and is used as a tool of criminality, considerably increasing criminal activities. At times, heinous crimes like dacoity, rape, murder and even terrorist acts are committed in or with the aid of vehicles having black films pasted on the side windows and on the screens of the vehicles. It is stated that because of non- observance of the norms, regulations and guidelines relating to the specifications for the front and rear windscreens and the side windows of the vehicles, the offenders can move undetected in such vehicles and commit crimes without hesitation.

The word 'tinted* means shade or hue as per the dictionary. The rear and front and side glasses of vehicles are provided with such shade or tint, and therefore, they are widely referred to as tinted glasses', which is different from 'black films'. The glasses of the vehicles having a coating of black films cannot be termed as tinted glasses' because they are not manufactured as such.

3. Besides aiding in commission of crimes, black films on the vehicles are also at times positively correlated with motor accidents on the roads. It is for the reason that the comparative visibility to that through normal/tinted glasses which are manufactured as such is much lesser and the persons driving at high speed, especially on highways, meet with accidents because of use of black filmed glasses.

4 The use of black films also prevents the traffic police from seeing the activity in the car and communicating with the driver of the vehicle. The petitioner also cites that the number of fatal accidents of vehicles having black films is much higher in India than in other parts of the world. The black filmed vehicles have lower visibility and therefore, the chances of accident are increased by 18 per cent to 38 per cent due to low visibility. He has also referred to the World Health Organization's data, pertaining to deaths caused on roads, which, in India have crossed that of China, though the latter has more vehicles, population and area in comparison to India. A device called luxometer can measure the level of opaqueness in windows owing to the application of black films but this device is a scarce resource and is veiy scantily available with the police personnel in India.

5. The Court can take a judicial notice of the fact that even as per the reports, maximum, crimes are committed in such vehicles and there has been a definite rise in the commission of heinous crimes, posing a threat to security of individuals and the State, both.

6. Whatever are the rights of an individual, they are regulated and controlled by the statutory provisions of the Act and the Rules framed thereunder. The citizens at large have a right to life i.e. to live with dignity, freedom and safety. This right emerges from Article 21 of the Constitution of India. As opposed to this constitutional mandate, a trivial individual protection or inconvenience, if any, must yield in favour of the larger public interest.

7. The petitioner claims to have received various replies from the police department of different States like Tamil Nadu, West Bengal, Delhi and Ministry of Home Affairs, New Delhi. On the basis of the replies received under the provisions of the Right to Information Act, 2005, copies of which have been annexed to the writ petition, it is averred that these authorities are of the unanimous opinion that black films should be banned. Black filmed glasses help in commission of crime as well as hiding the criminals even during vehicle checks at 'Naka* points. Non-availability of electronic devices to measure violations and lack of police force to enforce the Rules are also apparent from these replies. The petitioner also states that the use of black films is not prevalent in developed and/or developfhg countries all over the world. In fact, in some of the countries, it is specifically banned. In Afghanistan, Belarus, Nigeria, Uganda and even in Pakistan, use of black films on the vehicle glasses is banned. Use of black films is not prevalent in United States of America, United Kingdom, Germany and other countries as well.

8. In order to examine the merits of the prayers made by the petitioner in the present application, it will be necessary for us to refer to the relevant laws.

9. The Motor Vehicle Act, 1939 was enacted to consolidate and amend the laws relating to motor vehicles. This Act was subjected to various amendments. Finally, the Motor Vehicles Act, 1988 (for short the Act7) was enacted, inter alia, with the object and reason being, to provide for quality standards for pollution control devices, provisions for issuing fitness certificate of the vehicle and effective ways of tracking down traffic offenders. Section 190 of the Act provides that any person who drives or causes or allows to be driven in any public place a motor vehicle or a trailer which has any defect, or violates the standards prescribed in relation to road safety, or violates the provisions of the Act or the Rules made therein, is punishable as per the provisions of the Act. In other words, alteration to the conditions of the vehicle in a manner contravening the Act is not permissible in law. Section 52 of the Act declares that no owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are at variance with those originally specified by the manufacturer. However, certain changes are permissible in terms of the proviso to this Section and that too with the approval of the Central Government/competent authority. In terms of Section 53 of the Act, if any registering authority or other prescribed authority has reason to believe that any motor vehicle within its jurisdiction is in such a condition that its use in a public place would constitute a danger to the public, or that it fails to comply with the requirements of the Act or the Rules made thereunder, whether due to alteration of vehicle violative of Section 52 of the Act or otherwise, the Authority may, after giving opportunity of hearing, suspend the registration certificate for the period required for rectification of such defect, and if the defect is still not removed, for cancellation of registration. In exercise of its power, under various provisions of the Act, the Central Government has framed the Rules. Chapter V of the Rules deals with construction, equipment and maintenance of motor vehicles. Rule 92 mandates that no person shall use or cause or allo\$ to be used in any public place any motor vehicle which does not comply with the provisions of this Chapter. There are different Rules which deals with various aspects of construction and maintenance of vehicles including lights, brakes, gears and other aspects including overall dimensions of the vehicles. Rule 100 of the Rules concerns itself with the glass of windscreen and VLT of light of such glass windscreen. It specifically provides for fixation of glasses made of laminated safety glass conforming to Indian standards IS:2553-Part 2 - 1992 and even for the kind of windscreen wipers required to be fixed on the front screen of the vehicle. Relevant part of Rule 100, with which we are concerned, reads as under:-

"100. Safety glass.—(1) The glass of windscreens and the windows of every motor vehicle 188 [other than agricultural tractors] shall be of safety glass:

Provided that in the case of three-wheelers and vehicles with hood and side covers, the windows may be of 189 [aciylic or plastic transparent sheet.]

Explanation.—For the purpose of this rule,—

> "safety glass" means glass conforming to the specifications of the Bureau of Indian Standards or any International Standards and so manufactured or treated that if fractured, it does'not fly or break into fragments capable of causing severe cuts;
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> 1). any windscreen or window at the front of the vehicle, the inner surface of which is at an angle more than thirty degrees to the longitudinal axis of the vehicle shall be deemed to face to the front.

(2) The glass of the windscreen and rear window of every motor vehicle shall be such and shall be maintained in such a condition that the visual transmission of light is not less than 70%. The glasses used for side windows are such and shall be maintained in such condition that the visual transmission of light is not less than 50%, and shall conform to Indian Standards [IS: 2553— Part 2—1992];

(3) The glass of the front windscreen of every motor vehicle [other than two wheelers and agricultural tractors] manufactured after three years from the coming into force of the Central Motor Vehicles (Amendment) Rules, 1993 shall be made of laminated safety glass:

Provided that on and from three months after the commencement of the Central Motor Vehicles (Amendment) Rules, 1999, the glass of the front windscreen of every motor vehicle other than two wheelers and agricultural tractors shall be made of laminated safety glass conforming to the Indian Standards IS: 2553—Part 2—1992

Explanation.—For the purpose of these sub-rules "laminated safety glass" shall mean two or more pieces of glass held together by an intervening layer or layers of plastic materials. The laminated safety glass will crack and break under sufficient impact, but the pieces of the glass tend to adhere to the plastic material and do not fly, and if a hole is produced, the edges would be less jagged than they would be in the case of an ordinary glass,"

11, From the above provisions, it is clear that the Rules deal with every minute detail of construction and maintenance of a vehicle. In other words, the standards, sizes and specifications which the manufacturer of a vehicle is required to adhere to while manufacturing the vehicle are exhaustively dealt with under the Rules. What is permitted has been specifically provided for and what has not been specifically stated would obviously be deemed to have been excluded from these Rules. It would neither be permissible nor possible for the Court to read into these statutory provisions, what is not specifically provided for. These are the specifications which are in consonance with the prescribed IS No. 2553-Part 2 of 1992 and nothing is ambiguous or uncertain. Let us take a few examples. Rule 104 requires that every motor vehicle, other than three wheelers and motor cycles shall be fitted with two red reflectors, one each on both sides at their rear. Every motor cycle, shall be fitted with at least one red reflector at the rear. Rule 104A, provides that two white reflex in the front of the vehicle on each side and visible to on-coming vehicles from the front at night. Rule 106 deals with deflections of lights and requires that no lamp showing a light to the front shall be used on any motor vehicle including construction equipment vehicle unless such lamp is so constructed, fitted and maintained that the beam of light emitted therefrom is permanently deflected downwards to such an extent that it is not capable of dazzling any person whose eye position is at a distance of 8 metres from the front of lamp etc. Rules 119 and 120 specify the kind, size and manner in which the horn and silencer are to be fixed in a vehicle.

12. These provisions demonstrate the extent of minuteness in the Rules and the efforts of the framers to ensure, not only the appropriate manner of construction and maintenance of vehicle, but also the safety of other users of the road.

13. Rule 100 provides for glass of windscreen and windows of every motor vehicle. The glass used has to be 'safety glass'. Then it provides for the inner surface angle on the windscreen. Rule 100 (2) provides that the glass of the windscreen and rear window of every motor vehicle shall be such and shall be maintained in such a condition that VLT is not less than 70 per cent and on side windows not less than 50 per cent and would conform to Indian Standards [IS:2553-Part2-1992].

14.The said IS, under clause 5.1.7, deals with VLT standards and ' it provides for* the same percentage of VLT through the safety glass, as referred to in Rule 100(2) itself.

15. Having dealt with the relevant provisions of law, we may also refer to a statistical fact that the number of violators of Rule 1QP has gone up from 110 in the year 2008 to 1234 in the year 2010, in Delhi alone. This itself shows an increasing trend of offenders in this regard.

16. In face of the language of the Rule, we cannot grant the petitioner the relief prayed for, that there should be 100 per cent VLT. This Court cannot issue directions that vehicles should have glasses with 100 per cent VLT. Rule 100 of the Rules is a valid piece of legislation and is on the statute book. Once such provision exists, this Court cannot issue directions contrary to the provision of law. Thus, we decline to grant this prayer to the petitioner.

17. However, the prayer relating to issuance of directions prohibiting use of black films on the glasses of vehicles certainly has merit. On the plain reading of the Rule, it is clear that car must have safety glass having VLT at the time of manufacturing 70 per cent for windscreen and 50 per cent for side windows. It should be so maintained in that condition thereafter. In other words, the Rule not impliedly, but specifically, prohibits alteration of such VLT by any means subsequent to its manufacturing. How and what will be a "safety glass" has been explained in Explanation to Rule 100. The Explanation while defining laminated safety glass' makes it clear that two or more pieces of glass

held together by an intervening layers of plastic materials so that the glass is held together in the event of impact. The Rule and the explanation do not contemplate or give any leeway to the manufacturer or user of the vehicle to, in any manner, tamper with the VLT. The Rule and the IS only specify the VLT of the glass itself.

18. Two scenarios must be examined. First, if the glass so manufactured already has the VLT as specified, then the question of further reducing it by any means shall be in clear violation of Rule 100 as well as the prescribed IS. Secondly, the rule requires a manufacturer to manufacture the vehicles with safety glasses with prescribed VLT. It is the minimum percentage that has been specified. The manufacturer may manufacture vehicle with a higher VLT to the prescribed limit or even a vehicle with tinted glasses, if such glasses do not fall short of the minimum prescribed VLT in terms of Rule 100. None can be permitted to create his own device to bring down the percentage of the VLT thereafter. Thus, on the plain reading of the Rule and the IS standards, use of black films of any density is impermissible. Another adverse aspect of use of black films is that even if they reflect tolerable VLT in the day time, still in the night it would clearly violate the prescribed VLT limits and would result in poor visibility, which again would be impermissible.

19. The legislative intent attaching due significance to the ^public safety' is evident from the object and reasons of the Act, the provisions of the Act and more particularly, the Rules framed thereunder. Even if we assume, for the sake of argument, that Rule 100 is capable of any interpretation, then this Court should give it an interpretation which would serve the legislative intent and the object of framing such rules, in preference to one which would frustrate the veil purpose of enacting the Rules as well as undermining the public safety and interest. Use of these black films have been proved to be criminal's paradise and a social evil. The petitioner has rightly brought on record the unanimous view of various police authorities right from the States of Calcutta, Tamil Nadu and Delhi to the Ministry of Home Affairs that use of black films on vehicles has jeopardized the security and safety interests of the State and public at large. This certainly helps the criminals to escape from the eyes of the police and aids in commission of heinous crimes like sexual assault on women, robberies, kidnapping, etc. If these crimes can be reduced by enforcing the prohibition of law, it would further the cause of Rule of Law and Public Interest as well.

20. This Court in the case of *Hira Tikoo v. Union Territory of Chandigarh* [(2004) 6 SCC 765], while dealing with the provisions of town planning and the land allotted to the allottees, upon which the allotees had made full payment, held that such allotment was found to be contravening other statutory provisions and the allotted area was situated under the reserved forest land and land in periphery of 900 meters of Air Force Base. The Court held that there was no vested right and public welfare should prevail as the highest law. Thus, this Court, while relying upon the maxim *"salus populi est suprema lex?,* modified the order of the High Court holding that the allottees had no vested right and the land forming part of the forest area could not be taken away for other purposes. Reference can also be made to the judgment of this Court in *Friends Colony Development Committee v. State of Orissa* [AIR 2005 SC 1], where this Court, while referring to construction activity violative of the regulations and control orders, held that the regulations made under Orissa Development Authorities Act, 1982 may meddle with private rights but still they cannot be termed arbitrary or unreasonable. The private interest would stand subordinate to public good.

21. In the present case as well, even if some individual interests are likely to suffer, such individual or private interests must give in to the larger public interest. It is the duty of all citizens to comply with the law. The Rules are mandatory and nobody has the authority in law to mould these rules for the purposes of convenience or luxury and certainly not for crime. We may also note that a Bench of this Court, vide its Order dated 15th December, 1998 in Civil Appeal No. 3700 of 1999 titled *Chandigarh Administration and Others* v. *Namit Kumar* & Ors., had permitted the use of light coloured tinted glasses' only while specifically disapproving use of films on the vehicles. Subsequently, in the same case, but on a different date, another Bench of this Court vide its order reported at [(2004) 8 SCC 446] made a direction that mandate of sub-Rule (2) of Rule 100 shall be kept in mind while dealing with such cases.

22. Rightly so, none of the orders of this Court have permitted use of black films. Rule 100(2) specifies the VLT percentage of the glasses at the time of manufacture and to be so maintained even thereafter. In Europe, Regulation No. 43 *of the Economic Commission for Europe of the United Nations (UN/ECE) and in Britain, the Road Vehicles (Construction and Use) Regulations, 1986, respectively, refer to the International Standard ISO 3538 on this issue, providing for VLT percentage of 70 and 75 per cent respectively.

23. In light of the above discussion, we have no hesitation in holding that use of black films or any other material upon safety glass, windscreen and side windows is impermissible. In terms of Rule 100(2), 70 per cent and 50 per cent VLT standard are relatable to the manufacture of the safety glasses for the windshields (front and rear) and the side windows respectively. Use of films or any other material upon the windscreen or the side windows is impermissible in law. It is the VLT of the safety glass without any additional material being pasted upon the safety glasses which must conform with manufacture specifications.

24. Another issue that has been raised in the present Writ Petition is that'certain VIPs/WIPs are using black films on their vehicles for security reasons. Even this practice is not supported by law, as no notification by the competent authority has been brought to our notice, giving exemption to such vehicles from the operation of Rule 100 or any of its provisions. Be that as it may, we do not wish to enter upon the arena of the security and safety measures when the police department and Home Ministry consider such exemption appropriate. The cases of the persons who have been provided with Z and Z+ security category may be considered by a Committee consisting of the Director General of Police/Commissioner of Police of the concerned State and the Home Secretary of that State/Centre. It will be for that Committee to examine such cases for grant of exemption in accordance with law and upon due application of mind. These certificates should be provided only in relation to official cars of VIPs/WIPs, depending upon the category of security that such person has been awarded by the competent authority. The appropriate government is free to make any regulations that it may consider appropriate in this regard.

25. The competent officer of the traffic police or any other authorized person shall challan such vehicles for violating Rules 92 and 100 of the Rules with effect from the specified date and thereupon shall also remove the black films from the offending vehicles.

26. The manufacturer of the vehicle may manufacture the vehicles* with tinted glasses which have Visual Light Transmission (VLT) of safety glasses windscreen (front and rear) as 70 per cent VLT and side glasses as 40 per cent VLT, respectively. No black film or any other material can be pasted on the windscreens and side glasses of a vehicle.

27. For the reasons afore-stated, we prohibit the use of black films of any VLT percentage or any other material upon the safety glasses, windscreens (front and rear) and side glasses of all vehicles throughout the country. The Home Secretary, Director General/Commissioner of Police of the respective States/Centre shall ensure compliance with this direction. The directions contained in this judgment shall become operative and enforceable with effect from 4th May, 2012.

28. With the above directions, we partially allow this writ petition and prohibit use of black films of any percentage VLT upon the safety glasses, windscreens (front and rear) and side glasses. However, there shall be no order as to costs.

(S.H. Kapadia)

(A.K. Patnaik)

(Swatanter Kumar)

New Delhi April 27, 2012

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