

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.1315 OF 2015

ORDER:

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Challenging the action of the 2nd respondent in seizing their vehicles viz., HMV Goods Carriage bearing Nos. AP28TE2358, AP28TE1268 and AP28TE2439 on 24.01.2015 and keeping them in their custody, the petitioners filed this writ petition seeking a direction to respondent authorities to release the vehicles.

2. The case of the petitioners, in brief, is that their vehicles viz., HMV Goods Carriage bearing Nos. AP28TE2358, AP28TE1268 and AP28TE2439 were seized on 24.01.2015 by the respondents 2 and 3 on the ground that the vehicles were found to be illegally transporting the sand and kept the said vehicles in their custody along with the sand. Aggrieved by the action of the respondents in seizing their vehicles and detaining them in their custody without releasing the vehicles to the petitioners, the present writ petition is filed.

3. Today, at the hearing, the learned Assistant Government Pleader submits that the petitioners have a remedy of filing an application under Section 451 of Cr.P.C., before the Criminal Court seeking release of their vehicles, and seeking relief of release of vehicles by way of filing a writ petition is misconceived.

4. Per contra, learned counsel for the petitioner submits that the impugned proceedings, seizing the vehicles, are illegal and prays for a direction to the respondents to release the vehicles.

5. A perusal of Rule 13 of the Rules would show that the respondents are authorised to seize the vehicle and the sand when the same is transported in violation of sub-rule 1 of Rule 13 (3) of the Rules. As per Rule 13(3), *"An authorised officer to seize any vehicle as per Sub-Rule (1) shall keep the vehicle with Station House Officer*

concerned or Tahsildar concerned for safe custody and shall submit a report of such seizure to the Competent Court of law.

6. Further as per Rule 13(4) of the Rules, *“An authorised officer who seizes any vehicle shall order confiscation of the vehicle so seized.*

As per Rule 13(5) of the Rules –

“No order of confiscation of any vehicle shall be made under sub rule (4) unless the person from whom the vehicle is seized is given

a) A notice in writing informing the person of the grounds on which it is proposed to confiscate such property

b) An opportunity of making a representation in writing with such time as may be specified in the notice against the grounds for confiscation and

c) A reasonable opportunity of being heard in the matter.

7. It is not in dispute that respondents 2 and 3 seized the vehicles of the petitioners. But as per sub-rule (1) of Rule 13(3), a report of such seizure should be submitted to the Competent Court of law. But, in this case, though the vehicles were seized on 24.01.2015, till date the vehicles are not produced before the Competent Court of law. In the absence of production of the seized vehicles before the competent Court along with a seizure report, the question of preferring an application under Section 451 of Cr.P.C., by the petitioners seeking release of their seized vehicles does not arise.

8. A perusal of the Rules would show that, pending confiscation proceedings, the Rules do not provide for a procedure for release of seized vehicles. Further, petitioners should have submitted an application to the concerned authority for release of their vehicles; instead they straightaway approached this Court, by way of this writ petition.

9. The action of the respondent authorities in keeping the matter pending, even after seizure of the vehicles in question, without following

the procedure contemplated under sub-rule (1) of Rule 13(3) of the Rules, deprives the right of the petitioners seeking release of their vehicles from the competent Court. Hence, I deem it appropriate to dispose of the writ petition, by directing the respondent authorities/concerned Officer, either to immediately take steps in compliance of sub-rule (1) of Rule 13(3) by preparing seizure report and produce the vehicles before Competent Court to enable the petitioners to file an application under Section 451 Cr.P.C., for release of their vehicles, whereupon the competent Court shall pass orders in accordance with law; or, if the authorities fail to produce the same before the Competent Court forthwith, the petitioners be permitted to submit a representation to the concerned Officer seeking release of their vehicles. Upon receipt of the same, the Officer concerned shall consider the representation of the petitioners and pass appropriate orders, in accordance with law, within a period of two weeks therefrom, by seeking sufficient security for production of vehicles as and when required.

10. With the above observations, the writ petition is disposed of. There shall be no order as to costs. As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 05.02.2015

Note: Issue C.C.tomorrow

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