

HON'BLE SRI JUSTICE R. KANTHA RAO

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Writ Petition No.634 of 2015
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ORDER:

This writ petition is filed seeking writ of *Mandamus* declaring the action of the respondents in seizing the lorry bearing No.TN 73 C 7889 of the petitioner and keeping the same in their possession without giving custody of the same pending confiscation proceedings, as illegal and arbitrary and for consequential direction to respondents 2 and 3 to release the lorry to the petitioner forthwith.

2. Heard Sri Y.V. Ravi Prasad, learned senior counsel on behalf of the petitioner and the learned Government Pleader for Forest.

3. The petitioner is said to be the owner of the lorry bearing No.TN 73 C 7889. The said vehicle was seized by the 4th respondent on the ground that it was used in the transportation of red sander logs. The seizure was reported to the learned IV Additional Judicial Magistrate of I Class, Tirupati. The petitioner filed an application under Section 451 Cr.P.C. seeking interim custody of the vehicle. The learned Magistrate dismissed the said application. Against which, the petitioner filed Crl.R.C.No.2060 of 2014 before this Court. When it came up for hearing before the learned single Judge, learned Public Prosecutor submitted that the vehicle was handed over to the Forest Range Officer, Tirupati (2nd respondent) and thus, it was in the custody of the Forest Department. Thereafter, the learned counsel appearing for the petitioner withdrew the criminal revision case seeking liberty to pursue the remedies available to him under law. The petitioner now filed the present writ petition seeking release of the said vehicle.

4. Learned senior counsel submits that the vehicle was not in fact involved in any forest offences and in any event, the petitioner who is the owner of the vehicle has absolutely no knowledge about the

offences alleged. The vehicle has been kept idle for the last eight months and it is being deteriorated in value and condition. He relied upon a decision in '**Sunderbhai Ambalal Desai vs. State of Gujarat**'^[1], wherein the Supreme Court held as follows:

“...Whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of application for return of such vehicles.”

5. Learned senior counsel further submits that unless the vehicle is released to the interim custody of the petitioner, the vehicle would be damaged which ultimately results in irreparable loss to the petitioner.

6. On the other hand, learned Government Pleader for Forest argued that since the vehicle was involved in transportation of red sandal logs, which is a serious forest offence, the vehicle is liable to be confiscated and it shall not be given to the interim custody of the petitioner. In support of contention, he relied upon a decision in '**State of Karnataka vs. K. Krishnan**'^[2], wherein the Supreme Court held as follows:

“When any vehicle is seized on the allegation that it was used for committing a forest offence, the same shall not normally be returned to a party till the culmination of all the proceedings in respect of such offence, including confiscatory proceedings, if any. Nonetheless, if for any exceptional reasons a court is inclined to release the vehicle during such pendency, furnishing a bank guarantee should be the minimum condition. No party shall be under the impression that release of vehicle would be possible on easier terms, when such vehicle is alleged to have been involved in commission of a forest offence. Any such easy release would tempt the forest offenders to repeat commission of such offences. Its casualty will be the forests as the same cannot be replenished for years to come.

7. Having gone through the judgments relied upon by the

learned counsel for the petitioner as well as the learned Government Pleader for Forest, it can be understood that the vehicle which was involved in a forest offence cannot be ordinarily released and it can be released only under exceptional circumstances. On the other hand, it is also the view expressed by the Supreme Court that even if the vehicle is involved in the forest office, it is of no use to keep the vehicle idle with the police or Forest Department and the vehicle can be released with a direction to produce before the Court or the Authority at any point of time on furnishing sufficient security.

8. In the instant case, the trial of the case is not likely to be commenced in the near future. The vehicle has already been lying idle since eight months. When the Court is of the opinion that on account of delay in trial or other proceedings relating to the forest offence if the vehicle gets damaged, an order directing interim custody of the vehicle has to necessarily be passed.

9. Under these circumstances, the petitioner is directed to make an application before the Sub-Divisional Forest Officer, Tirupati-2nd respondent, seeking interim custody of the vehicle and that on making such application by the petitioner, the 2nd respondent is directed to pass appropriate orders regarding interim custody of the vehicle on condition of the petitioner producing the vehicle as and when directed and also on other conditions relating to security to be furnished as the Authority deems fit and proper.

10. With the above observation, the writ petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

R. KANTHA RAO, J

Date: 24.02.2015

Note:

Issue CC in two days
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[\[1\]](#) (2002) 10 SCC 283

[\[2\]](#) AIR 2000 SC 2729(1)