

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.441 OF 2015

ORDER:-

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. questioning the order dated 05.12.2014 passed in CrI.M.P.No.1786 of 2014 in Crime No.52 of 2014 on the file of the II Additional Judicial Magistrate of First Class, Kadapa, wherein and whereunder an application filed under Sections 451 and 457 Cr.P.C. seeking interim custody of cash of Rs.1,00,000/- said to have been seized from the petitioner was rejected.

The facts in issue are as under:

On 20.04.2015, at about 6.15 p.m., while the petitioner along with three others was proceeding in a Tata Safari vehicle bearing No. AP 27 AB 9945, the police intercepted the vehicle and seized an amount of Rs.1.00 lakhs under a cover of panchanama dated 20.04.2014. Basing on the said search and seizure a case in Crime No.52 of 2014 of RIMS Police Station came to be registered. Pending investigation, the petitioner herein filed an application under Sections 457 read with 451 Cr.P.C. seeking interim custody of the amount seized in the above crime. After hearing both sides, the learned Magistrate dismissed the application on the ground that the cash is not a tangible good and there is no possibility of damage or loss caused to the amount if it is kept in the custody of the Court till disposal of the application. The learned Magistrate further observed that the seized cash is required for identification during the course of trial. Aggrieved by the same the present revision is filed.

Heard learned counsel for the petitioner and learned Public prosecutor appearing for the respondent-State.

Learned counsel for the petitioner submits that the petitioner had borrowed an amount of Rs.1,00,000/- from Fairoz Ahamad

Madanapalle, who withdrew an amount of Rs.99,000/- by way of Self cheque on 19.04.2014 and withdrew Rs.1,000/- through ATM.

The fact remains that the amount of Rs.1.00 lakh was seized from the custody of the petitioner and there is no dispute with regard to the said fact. The question is whether any prejudice would be caused to the prosecution if the amount is given as interim custody to the petitioner.

As seen from the record, the panchanama does not contain the numbers of the notes which are seized. It only refers to the quantity of notes seized and the denomination of the notes. Therefore, this Court is of the view that even if the interim custody of amount is given to the petitioner no prejudice would be caused to the prosecution at the time of trial since the seizure of the notes from the possession of the petitioner is not disputed by him and number of the notes is not reflected in the panchanama. Hence, the interim custody of Rs.1.00 lakh seized in Crime No.52 of 2014 of RIMS Police Station, Kadapa is given to the petitioner, subject to the petitioner executing a personal bond for Rs.1,00,000/- (Rupees one lakh only) with third party security for the said amount, to the satisfaction of the II Additional Judicial Magistrate of First Class, Kadapa.

Accordingly, the Criminal Revision Case is allowed. Consequently, miscellaneous petitions, if any, pending shall stand closed.

C. PRAVEEN KUMAR, J

30.04.2015
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THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Criminal Revision Case No. 493 of 2015

9th April, 2015

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