

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.643 of 2015

ORDER:-

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. questioning the order dated 16.02.2015 passed in Crl.M.P.No.3356 of 2014 on the file of IV Additional Judicial Magistrate of First Class at Nellore.

The facts in issue are as under:

On credible information about illegal transportation of sand from Penna River, the Sub-Inspector of Police, Nellore (Rural) Police Station, along with his staff proceeded to the Northern side of Ambapuram Forest in Nellore Mandal and intercepted ten tractors loaded with sand. Basing on the confession of the drivers and the coolies (A.1 to A.13) that they were transporting sand without any permission from the Government, the police arrested them, seized the tractors & trailers and registered a case in Crime No.293 of 2014 for the offences punishable under Sections 447, 427, 379, 120-B IPC and Section 21(1) & (4) of M.M.D.R.Act. During the pendency of investigation, the petitioner claiming himself to be the owner of tractor & trailer bearing registration Nos.AP 26 TC 5867 and AP 26 TC 5868, filed Crl.M.P.No.3356 of 2014 before the IV Additional Judicial magistrate of First Class at Nellore seeking interim custody of the vehicles. By an order dated 16.02.2015, the learned Magistrate rejected the application on the ground that the vehicles are liable for confiscation. Challenging the same the present revision is filed.

Learned counsel for the petitioner submits that there is every possibility of the vehicles getting damaged, if they are kept exposed to air, sun and rain at the police station premises and hence seeks interim custody of the vehicles. Learned Additional Public Prosecutor though opposed the revision, but did not dispute the ownership of the vehicles.

In ***Surenderbhai Ambalal Desai v. State of Gujarat***, the Apex Court has laid down that in case of vehicles seized during investigation, they should not be

allowed to deteriorate by being kept unused and unattended in the premises of the Police Stations. Therefore, the vehicle has to be entrusted to the interim custody of the petitioner subject to appropriate conditions.

Since there is no dispute with regard to the ownership of the vehicle and as the question of confiscation arises after a full-fledged trial and having regard to the principles of law laid down by the Apex Court in the decision stated supra, I am inclined to grant interim custody of tractor & trolley bearing registration Nos.AP 26 TC 5867 and AP 26 TC 5868 respectively seized in Crime No.293 of 2014 of Nellore (Rural) Police Station in favour of the petitioner on the following terms.

- i. The petitioner shall execute a personal bond for Rs.4,00,000/- (Rupees four lakhs only) with one surety for a like sum to the satisfaction of the IV Additional Judicial Magistrate of First Class at Nellore.
- ii. The petitioner shall deposit the original Registration Certificates of the vehicles in the Court. However, the trial Court shall issue a certified copy of the registration certificate to the petitioner so that no inconvenience is caused to him while using the vehicle.
- iii. The petitioner shall give an undertaking to produce the vehicles as and when required either by the Investigating Agency or the Court and also give an undertaking that he will not alienate, encumber or alter the physical features of the vehicles.

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

C. PRAVEEN KUMAR, J

24.04.2015

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