

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

Criminal Revision Case No. 178 of 2013

Order:

This Criminal Revision Case is directed against the orders, dated 21.12.2012, passed in Crl.R.P. No.50 of 2012 in Crl.MP No.594 of 2012 in OR No.24 of 2012-2013 by the learned II Additional Sessions Judge, Kadapa, at Proddatur, whereby and whereunder the order of the learned II Additional Judicial Magistrate of First Class, Proddatur, passed in Crl.MP No.594 of 2012, dated 29.10.2012, giving interim custody of Tata Indica Vista vehicle bearing registration No.AP-04-AF-7879 to the revision petitioner herein, was set aside.

2. The contention of the learned counsel for the revision petitioner is that the revision petitioner is the owner of Tata Indica Vista vehicle bearing registration No.AP-04-AF-7879 and the said vehicle was seized by the forest officials alleging violation of certain provisions of the A.P. Forest Act. It is submitted that the forest case has been foisted and absolutely nothing was recovered from the vehicle nor any red sandal logs were found in the vehicle. It is further submitted that on a petition filed by the revision petitioner the learned Magistrate, after taking into consideration the facts and circumstances of the case, has rightly directed for interim custody of the vehicle, but in revision the learned Sessions Judge has reversed the said order by relying on a decision of the Hon'ble Apex Court in **State of Karnataka v. K. Krishnan**. He further submits that in the very same decision the Hon'ble Apex Court observed that 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. Therefore, learned counsel submits that if the vehicle is allowed to be kept idle in the custody of the department, pending trial of the case, which would take considerable time, and exposed to sun and light it may be damaged, hence, seeks to set aside the impugned order and release the crime vehicle.

3. Heard both sides and perused the entire material on record.

4. The allegations, as seen from the complaint, are that on the date of incident while the complainant-Forest Range Officer, Proddatur, along with his staff conducting patrol and when they reached near Cine Hub bypass road, Proddatur, they noticed one Car and two motor cycles besides eight persons and on seeing them, those persons tried to escape. It is further alleged that the staff of the Forest Department have apprehended those eight persons and on interrogation those persons revealed that they were transporting the illicit red sandal logs. It is further alleged that when the forest officials inspected the vehicles nothing was found therein, but instead red sandal logs were found in the bushes.

5. The above allegations are subject to adjudication by the trial Court. The vehicle seized is a mechanically propelled vehicle and, admittedly, the alleged red sandal logs were not found in the vehicle, instead the logs were found somewhere in the bushes. Taking into consideration the facts and circumstances of the case, I feel that the interim custody of the vehicle can be given to the revision petitioner subject to certain conditions.

6. Accordingly, the Criminal Revision Case is allowed and the impugned order, dated 21.12.2012, passed in CrI.R.P. No.50 of 2012 in CrI.MP No.594 of 2012 in OR No.24 of 2012-2013 by the learned II Additional Sessions Judge, Kadapa, at Proddatur, is set aside. The Tata Indica Vista vehicle bearing registration No.AP-04-AF-7879 shall be released to the petitioner subject to following conditions.

- i. The petitioner shall satisfy the learned Magistrate about the ownership of the vehicle.
- ii. The petitioner shall deposit the original RC and other papers of the vehicle by obtaining certified copies thereof from the Court.
- iii. The petitioner shall furnish bank guarantee for a sum of Rs.1,00,000/- (Rupees One Lakh only).
- iv. The petitioner shall not change the colour or shape of the vehicle and shall not alienate the vehicle pending disposal of the case. He shall produce the vehicle as and when required by the trial Court.

7. As a sequel thereto, the miscellaneous petitions, if any, pending in the Criminal Revision Case shall stand closed.

M.S.K. JAISWAL, J.

Date: 16.06.2015

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