

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

Case No. CrI.R.C. No.1384 of 2015

Between:

V. Nagaraju Kumar S/o. Late Satya Narayana

... Petitioner/Appellant (s)

and

K. Sambasiva Rao S/o. Bapaiah and others

... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: 27.07.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAJA ELANGO

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|---|---|--------|
| 1 | Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be
marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1384 OF 2015

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ORDER:

This Criminal Revision Case is filed against order, dated 07.05.2015 passed in CrI.M.P. No.754 of 2015 in Crime No.34 of 2013 on the file of the III Additional Judicial Magistrate of First Class at Ongole, Prakasam District, whereby the learned Magistrate has dismissed the petition filed by the petitioner for return of vehicle i.e. Omnibus bearing Registration No.TN 01 AA 1999.

Heard and perused the material available on record.

The brief facts of the case are that the petitioner is a resident of Vijayawada. He is doing transport business. He purchased the Omnibus bearing No.TN 01 AA 1999 for a sum of Rs.7.00 lakhs from one K.P. Natarajan – 3rd respondent. Thereafter, the petitioner gave the said vehicle to one A. Sudhakar – 2nd respondent on hire basis for a rent of Rs.1,05,000/- per every quarter, by virtue of hire agreement dated 15.02.2011. The 2nd respondent with the connivance of the 1st respondent, has changed the number of the engine and the chassis of the vehicle and plying the same. When the Assistant Motor Vehicle Inspector – 4th respondent checked the vehicle, he found that the same was running with fake documents therefore, he seized the said vehicle on 23.11.2011. The petitioner approached the 4th respondent to release the vehicle for interim custody. But, the 4th respondent did not release the vehicle.

Thereafter, the petitioner filed a private complaint before the I-Additional Chief Metropolitan Magistrate, Vijayawada, against the 2nd respondent and the same was registered as Crime No.499 of 2012 for the offences punishable under Sections 406 and 420 IPC. The 4th respondent also filed a criminal case against the respondents 1 and 2 in Taluka Police Station on 24.01.2013, in Crime No.34 of 2013 for the offences punishable under Section 468 and 471 IPC. In that case the vehicle was handed over to Taluq PS., Ongole. Therefore, the petitioner filed an application before the III-Additional Judicial Magistrate of First Class, Ongole, for return of the vehicle, stating that he is the owner of the vehicle and he is entitled for its interim custody. In that application, the petitioner has shown the accused as respondents 1 and 2, K.P. Natarajan, from whom the petitioner purchased the vehicle as 3rd respondent and the Assistant Motor

Vehicle Inspector as the

4th respondent. When the summons were received by the 3rd respondent – K.P. Natarajan, he endorsed on the notice that he has no objection for return of the vehicle to the petitioner. The reason for such an endorsement by K.P. Natarajan is that even though the petitioner paid the entire sale consideration, the vehicle stands in his name only. The trial Court dismissed the application filed by the petitioner through the impugned order on the sole ground that till date, the vehicle stands in the name of the 3rd respondent.

The provisions of Sections 451 and 457 Cr.P.C., speak about proper custody of the properties concerned. It is the admitted case of the 3rd respondent and the petitioner that the petitioner is the owner of the vehicle and he purchased the same by paying the entire sale consideration to the 3rd respondent. But, the fact remains that the vehicle was given on hire basis to the 1st respondent and the 1st and 2nd respondents have changed the engine number of the vehicle and plying the same. If the vehicle is directed to be returned to the petitioner with the original numbers, there would be some confusion, if the same is produced before the concerned Court at the time of trial. Therefore, this Court is of the view that the vehicle can be directed to be returned to the petitioner by imposing the following conditions:

1. The petitioner is directed to execute a bond for a sum of Rs.8.00 lakhs (Rupees eight lakhs only) and on such execution, the III Additional Judicial Magistrate of First Class at Ongole, Prakasam District, is directed to return the vehicle seized in Crime No.34 of 2013 of Ongole Taluk Police Station, Prakasham District, to the petitioner.
2. The petitioner is directed not to alienate the vehicle and also not to change the numbers which

are inscribed on the engine as well as the chassis by the 1st and 2nd respondents, since the same is to be produced before the Court concerned at the time of trial.

3. The petitioner is directed to produce the vehicle before the Court concerned as and when required, during the time of trial.

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

RAJA ELANGO, J

July 27, 2015.
KTL